

# NEW ENGLAND FISHERY ISSUES

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Y 4. C 73/7: S. HRG. 103-781

New England Fishery Issues, S.Hrg....

## HEARING

BEFORE THE

### COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

ONE HUNDRED THIRD CONGRESS

SECOND SESSION

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JULY 30, 1994  
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Printed for the use of the Committee on Commerce, Science, and Transportation



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# NEW ENGLAND FISHERY ISSUES

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SATURDAY, JULY 30, 1994

U.S. SENATE,  
NATIONAL OCEAN POLICY STUDY OF THE  
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,  
*New Bedford, MA.*

The committee met, pursuant to notice, at 9:30 a.m. at Durant Sail Loft, 1 Merrill's Wharf, New Bedford, MA, Senator John Kerry (Vice Chairman of the National Ocean Policy Study) presiding.

Staff members assigned to this hearing: Penelope D. Dalton, senior professional staff member; and John A. Moran, minority staff counsel.

## OPENING STATEMENT OF SENATOR KERRY

Senator KERRY. This field hearing of the National Ocean Policy Study of the Commerce Committee is officially called to order.

I want to thank everybody for coming out on a Saturday morning when you obviously have a lot of pressures on you and other things you could be doing, and some of you obviously could be fishing. So, I am very appreciative of your being here to take time to discuss the plight of the fishing industry.

Let me tell you what I would like to do. We want to have a roundtable discussion. We do not want to have a lot of formal testimony with people talking on and on. We would like to have a short introductory comment by each of the participants, with as much time for discussion as possible.

Then after a certain period of time with the participants here, I intend to open it up for some questions or thoughts from the public, and that way I think we will all learn a lot more, and you will feel that this has really been a sharing experience rather than just someone pontificating at you or talking past you.

I know there are a lot of emotions that are even at a higher pitch today than normal on this issue. Many of you have been in this very room with me before and we have talked about fishing issues. There are some existing trends within the fishing industry that I did not create and that I do not think any of the panelists here created, but which we have to deal with.

So, I ask you in the course of the discussion to remember that we all share the emotion about what is happening, and I hope that we can keep the discussion completely civil, and hopefully as productive as possible.

Before I make a couple of introductory comments let me introduce the members of the panel so everybody understands who is here, and I particularly am grateful to them for coming.

I think, frankly, we have an extraordinary group of experts here today. The date for this hearing was set months ago, it was moved by 1 week because of the Senate schedule. But it is simply absolutely fortuitous, some might say unfortunate, but fortuitous that we happen to wind up here in the same week as the Canadian seizure of two New Bedford scallop vessels. So, I do not want you to think that we are subliminally here as a consequence of that event, but that obviously underscores the nature of the problem. So, in a way, it is simply a dramatic statement about how significant this hearing is, and how timely it is that we are getting together right now.

I am the vice chairman of the National Ocean Policy Study, that is a subcommittee of the full Commerce Committee. We have jurisdiction in the Senate over all fisheries issues. So, I am essentially the person under Senator Fritz Hollings, who graciously gives me a significant amount of leeway on this issue, responsible for the reauthorization of the Magnuson Fishery Conservation and Management Act, and of the U.S. Senate on fisheries issues.

As you all know, we are lucky to have Gerry Studds in the House of Representatives who is chairman of the Merchant Marine and Fisheries Committee and has a similar responsibility on the House side. So, you happen to be fairly fortunate in that your congressional delegation from Massachusetts can represent the fishing industry, and we try to do that.

I will tell you candidly there is not one day that goes by that people on my staff are not working on one aspect of fishing issues or another. And I am glad to do that, because I care enormously about this resource, I care enormously about the industry. I consider the maritime industry to be part of my blood as a son of Massachusetts, but also, quite frankly, historically it is part of my family and part of my upbringing which has always been right out here on Buzzard's Bay. I've been able to enjoy our clams and our bluefish and our stripers and so forth since I was a kid, and I want to do that and pass it on to my children, too.

So, I understand the importance of these issues, and I know the emotions involved.

We have a group of people around this table who have worked on this issue as long or longer in some cases than I have, and who also understand it very, very deeply. We're lucky to have them here today.

John Bullard, who is now performing extremely important responsibilities on the Federal level, has responsibility for developing concepts to keep this industry going and how to save the resource. He is doing it not just for this region, but for the northwest Pacific, the southern Pacific, for the various species, from the shrimp fishermen of Louisiana, along with the scallopers and longliners of New England. He is a former mayor of this city who needed a good excuse to get back here but did not need any excuse to understand this issue.

Chip Collins of Winslow Management is another person who has had a long time involvement in this issue. He is the author of a paper which was really a groundbreaker and forced people to consider reality called "Beyond Denial—Northeastern Fisheries Crisis,



Causes, Ramifications And Choices." And he has an awful lot of insight and understanding of the issue.

Gary Golas, who is chairman of the New Bedford Seafood Coalition, has done a terrific job in helping to try to fill the void left when John Bullard went down to Washington. He is working on a coalition of mainly larger vessels, but looking at the long-term issues.

Robert Griffith from Rhode Island is involved in State planning for economic development.

Bill Hogan, professor of economics at University of Massachusetts at Dartmouth. He has done a report on the impact of the fishing industry in the area and understands the economics of it extremely well, having studied the industry for a long time.

Gail Johnson, from Maine, is the owner of a longliner and the former president of the Maine Fishermen's Wives Association.

Frank Mirarchi, a small boat fisherman from Scituate who served on the New England Fishery Management Council for many years, has proven to be extremely conservation minded, and served with great distinction. He was not able to continue serving this particular period because of the shift of the council members to New Bedford, but I hope very much will return to the council at the first opportunity.

Peter Shelley of the Conservation Law Foundation which really is one of the groundbreaking groups interested in fisheries.

Mark Simonitsch, a small boat captain, runs a packaging plant out in Chatham and has been awarded a grant to start a new aquaculture operation.

Representative Bruce Tarr has worked tirelessly representing the Gloucester region and has been a tremendous resource on this issue. As a result of his effort Gloucester fisherman have become well-organized working on this issue.

Now, let me just very quickly summarize and then we are going to get right into the dialog. I promised you I would not talk for too long, and I will not.

There is no way to avoid dealing with the issue that is in front of us today. Fisheries are a renewable resource. It requires parents to provide children, just as it does for human beings. And if you scoop up all the parents, there will be no children. It is very simple. We know it.

The problem is today that all over the world, all over the world, there are too many boats chasing too few fish. It is not an American problem, it is not a New Bedford problem, it is not a New England problem. It is a global problem.

Whereas fishermen once went out and threw a lead line over and checked the nature of the bottom with a greased lead line, today they have sophisticated sonar and devices that can distinguish between different kinds of sand and pick up one single fish. It has become so sophisticated that it is no wonder that with more boats fishing there are fewer fish available. This is not a complicated equation.

What is complicated is the politics of long-term conservation and planning. Because clearly economics are at stake. In order to preserve the resource when there are too many people pursuing it and

money is at stake, you obviously face the terrible prospect of lost jobs and wages.

And so the question is: How do we manage this in a way that minimizes losses, and maximizes the long-term capacity of the fisheries? That's the task in front of us.

Now, 13 out of 17 global fisheries are today at jeopardy. Despite the worldwide driftnet ban that Ted Stevens of Alaska and I pushed the Bush administration to get through the U.N., the Italians are still out there with driftnets. And when one group breaks the rules, it creates a terrible sense of unfairness and anger among other groups, and it forces the whole system to begin to come apart because people say "well, if they are doing it, then why can't we do it?"

What we have seen in Canada in the last couple of days is frankly, I think, only the beginning of the kind of conflict that may grow between countries as this resource diminishes and as the pressures grow politically.

We saw what happened earlier this year when France unilaterally rejected fish products from this region.

I have been urging the Secretary of State for some period of time to put this issue more directly on the international agenda. This is going to have to be resolved internationally, folks, not unilaterally, multilaterally.

Let me give you a stark reality. You could reduce the fishing fleet of Norway by 50 percent and you could reduce the fishing fleet of Iceland by 40 percent, and they would still be able to go out and catch as much fish as they are catching today. So, we have got to try to figure out amongst ourselves how we deal with these issues.

There are many issues. Take, for example, by-catch. How do you deal with the problem of the amount of fish you scoop up when you are out there to catch one species and you throw away another species that is part of the ecosystem? And the by-catch species may be an important part of the food chain. We don't even know what happens if you begin stripping away that other part of the biota. What is the ecological balance between those things you want to catch?

In addition to by-catch problems, you have a serious economic problem. I proposed a vessel buy-back plan when we got the \$30 million to help this year, I specifically said to the Secretary of Commerce "we must begin to buy back excess fishing capacity. You have to have some limited entry, but you want to minimize the negative economic impact of people who have a mortgage, a home, kids. You have to help the transition out of this dilemma." We still, I think, have to do that.

In addition to the buy-back, we have serious problems with enforcement. If some fishermen see certain fishermen going out and breaking the rules, then there is every incentive in the world for them to go out and break the rules. And if everybody is out there breaking the rules, then you have invited the government to step in, and in a stronger way, which only creates greater anger within the process.

But the bottom line is that if everybody breaks the rules, everybody will be out of business. We will destroy the fishing industry.

So, clearly we have to begin to put in a process where people are living by the rules, and where they feel the rules are fair.

What has happened in Canada in the last couple of days is unacceptable under any standard. It is totally unfair, unilateral action, without warning, and against even what the science tells us ought to be enforced. In addition, it is not the way for a friendly nation to behave with a neighbor.

So, I have urged Secretary Christopher to take the strongest action on this. Last night I spoke with the Under Secretary of State who has been directly in touch with Ambassador Blanchard on several occasions. I will personally be talking to Ambassador Blanchard today, and I would stress to you that the only solution that I believe is acceptable in this situation is for Canada to release those boats, release those men and pay for the catch. There should be no fines, and no penalties, and they should agree that this will not happen again, that we will sit down at a table and understand what the definitions are going to be. Because this is wrong.

Now, I do not want to spend the whole day today on the Canadian situation because, as I said to you just now, this is going to go on unless we learn how to deal with amendment 5 and the other problems that we face.

Here is how I would like to proceed today. Let us talk about how we can best deal with minimizing the pain. How do you think we can do this in a way that is fair? What is the first best option available to us? The second best option? What should we do to try to guarantee that we have fair enforcement mechanisms? What should we do to guarantee the maximum choice and input to fishermen and not treat fishermen like criminals or like schoolchildren? How do we do this in a way that balances the great individuality and robust pioneerism of fishing with the need to have enforcement? There must be a balance there.

I want to know from you, the people who work this issue on a daily basis, or who have thought about it at great length, how we can best implement long-term solutions to the challenges we now face.

So, those are the parameters of this discussion, and without further ado, I would like to ask each member of the panel to take 2 or 3 minutes and give us your quick cut on whatever issues you think you would like to address or how you would like to come at this, and then we'll begin an open dialog.

And I will try to construct a framework that moves from issue to issue, and see if we can lay out a solid response.

I am in the process right now of rewriting the Magnuson Act, so this is our chance to put new mechanisms in place. And I promise you we will listen carefully at this hearing. The staff from the Commerce Committee is here, and we will take your thoughts back as we try to put together the strongest and best possible Magnuson Act reauthorization legislation.

So, Mr. Golas, why don't you lead off, and we'll move around the table in this direction.

✓ **STATEMENT OF GARY GOLAS, CHAIRMAN, NEW BEDFORD  
SEAFOOD INDUSTRY COALITION**

Mr. GOLAS. I want to thank you, Senator Kerry, for allowing me to testify at this hearing this morning, and on behalf of the seafood industry would like to welcome you to New Bedford as well, and last express our gratitude for all your help that you've done for the industry, and especially in this situation with the Canadian incident.

My testimony today is the issue of economic aid to the fishing industry here in New Bedford.

I'd like to speak of my direct involvement and experiences in this economic aid issue. I'm involved in three ways.

No. 1, I am involved with organizing the efforts of trying to get this aid possible for the industry; No. 2, I hold a position for recruiting unemployed fishermen in the new directions job training program here in the city; and last we're just starting to put a bunch of informational workshops together for the people of the industry to understand the financial aid packages that are available to them.

Although I have to tell you that it's too early for us to say how effective the \$30 million economic aid is here in New Bedford because of the lack of statistical information, I'd like to inform of you a number of serious concerns that we have here in New Bedford regarding this aid.

The concerns we have really are leading to a number of difficulties and the requirements associated with getting this aid, and it's leaving a wake of frustrations, confusion, and anger along this whole waterfront. I think people everywhere along this waterfront on both sides got the clear impression when Commerce Secretary Ron Brown made the announcement in March that the \$30 million will be available to help them get out of their financial difficulties, I think everyone got the clear impression that it was going to be simple to get financial aid. And right now I think what they're finding is that it's just the opposite, it's starting to get more difficult to get.

When John Bullard came into town in January he had asked us a number of questions. One of them, What are our problems and how they can be solved? We provided plenty of testimony on that line. We talked about the need to refinance vessels; we talked about the great need for unemployment compensation and health coverage; we talked about vessel buy-back plans; we talked about retraining, not only providing retraining but also the social services to support those that are unemployed; we talked about marketing underutilized issues and trying to deal with the high cost of running a vessel and the personal injury insurance issues.

Sadly I have to report to you that the people that are dealing with these programs or trying to get these programs find that these programs are not easy to understand, No. 1. No. 2, they're not easy to land. And some of these programs, frankly, don't answer some of the more pressing needs that we have.

And let me just explain just a few of those areas.

No. 1, there have been no offers so far of unemployment assistance or social support financing for those that have either run out of benefits, unemployment benefits, or have never been entitled to

them in the first place, continue to be told through Washington that this will never pass.

For the fishermen will health benefits, they are finding it harder to keep up with their contributions to their health plans, making a contributions amount higher and harder for others to maintain.

I would encourage you, Senator Kerry, to develop funding sources or funding programs to extend unemployment benefits to those in need and to offset the rising cost of health programs. They just simply need to get by this transition in life.

No. 2, the grant programs are well intentioned. I'm speaking about the Northwest Atlantic Reinvestment Program that is currently administered by Wildlife Federation, something I know you put together, and worked very hard to put together, the other two programs, the newly developed Industry Grants Program and the Kennedy/Saltonstall Grant Program by NMFS. As much it is beneficial to get everyone to think about fishing for other species, think about new products, new machines, think about farming or ranching your own fish.

Most of this waterfront at this present time is looking to simply survive and get out of the financial hole that they're in. And for the small percentage that are looking at these grants seriously, the research and documenting requirements are forcing them to consider to go back to school for their doctorate degrees or even hire academic assistants.

It is the policy that is discouraging many from applying. And I would encourage you to develop real and meaningful grant programs without requirements for extensive documentation.

No. 3, the well intentioned FOG program, and for those of you who don't know what the FOG program is, that's the Fishing Vessel Obligation Guarantee Program run by the National New England Fisheries Service, this program appears to not be helping those in need. In fact, it's having an opposite effect of what is it's intended to do.

People dealing with FOG here in New Bedford, the accountants, the bookkeepers, are saying that FOG is attracting and approving loans for the few vessel owners who you could say are the cream of the crop and probably would survive this crisis no matter what; they have the good credit required on the FOG program, and like anyone else wouldn't hesitate to get a much better financial deal.

Unfortunately, this is leaving the local bank portfolios empty with many better industry loans going to FOG. Those involved in applying these loans say FOG is simply mindboggling with extensive paperwork and credit requirements, and that the paperwork is very much overkill.

I would encourage you to take some action to lessen the requirements of FOG and convince the Fishery Service to take much more risk and chances with FOG.

Last, probably the one and only economic package that I'm holding some hope for to aid the short-term needs of the industry is the EDA Revolving Loan Program which is being administered by the New Bedford Corp. Applications have recently been sent out to help those with working capital needs as well as the purchase of equipment. I do believe, however, that the \$2.6 million available here in

New Bedford will be loaned out quickly and we'll probably need a whole lot more.

I would encourage you to make more funds available when the time comes, and it probably will be sooner than we think.

Last, I just want to let you know that fishermen here in New Bedford really do need some form of simple financial assistance. All they want to do is go fishing and pay their bills. Others who are unemployed simply want money to live on and get new jobs. If we can make this possible, they will go back to work again, they'll continue to fish again.

There's a lot of serious concerns in this industry, and what we need right now is money directly to ease these burdens, not Government redtape filled with extensive mindboggling requirements.

I thank you for your consideration and all your help.

Senator KERRY. Thank you very much. Bob.

#### **STATEMENT OF ROBERT K. GRIFFITH, CHIEF, OFFICE OF STRATEGIC PLANNING, RHODE ISLAND DEPARTMENT OF ADMINISTRATION**

Mr. GRIFFITH. Thank you, Mr. Chairman.

I, too, appreciate the opportunity to represent the people of Rhode Island who are involved directly and indirectly in this industry. I'll try to tailor my remarks and trim them further.

I will echo many of the things that Gary has already said. I am lately come to this issue and am not an expert on fisheries management, but I may venture some opinions during the discussion phase. My primary role is as staff director to a State effort to respond to this issue, and that's where I'll focus my attention.

We, in Rhode Island, appreciate the efforts and the assistance that have been offered, and if my remarks sound like a laundry list of problems and negative, they are not intended in that fashion. My purpose is to point out areas where we can improve rather than just to harp at shortcomings.

One of the concerns that has been expressed by a number of people, yourself included, is that this is a regional issue, and we need to be responding to it in a regional fashion.

Since March, I've been logging about 1,000 miles a month traveling on this issue alone, and getting to other States and meeting with folks. What I find is that meaningful interaction with other States in the region is very difficult until most recently. Relevant agencies of State government have been busy responding to in-State constituencies and developing their own response.

We recently had a meeting of representatives from five New England marine fishing States literally to make introductions and to compare notes. While all of us agreed on the need for some level of regional cooperation on this issue, we remained at a loss to define it or a mechanism.

The failure to articulate a regional response to date stems, in part, from the nature of the Federal response. The highly publicized announcement of emergency funding last March fostered an expectation of aid immediately forthcoming. That led to a frenzy which had the aspect of every man for himself at the State and local level. We've now had time to settle out of that, and are com-

ing back again to begin to address the issue from a more regional perspective.

At the same time actions by the Office of Sustainable Development and Intergovernmental Affairs, which were properly aimed at determining needs of effected communities, bypassed State governments and left them scrambling to catch up.

We have some specific concerns with elements of the Federal program. Again I'm echoing what others have said, but I think it needs to be repeated.

One of our fundamental concerns is that to date the Federal program has been announced and introduced in a piecemeal fashion, and lacks clear overarching vision or objectives. The so-called visioning process is barely underway. We do not have a clear picture of the impact of the restrictions on commercial fishermen and their allies in the seafood industry. We do not even have good demographic and economic baseline data on the industry from which to measure impact or the success or failure of assistance programs or mitigation measures, which are already underway.

Lacking such information, we're nevertheless caught up by a crisis atmosphere, and we're forging ahead with loan and grant programs. To what end?

Mr. Collins has warned that "there are large uncertainties about the future competitiveness of aquaculture, particularly regarding the ability of U.S. growers to compete against foreign growers." He urged "considerably more extensive market research" to identify where additional effort in Northeastern aquaculture should be focused. Has such research been accomplished? No. But both the Loan Guarantee Program and the Fishing Industry Grants Program for the Northeast Fisheries Assistance Program are soliciting proposals by fishermen for aquaculture ventures.

Again, we caution against schemes aimed at shifting excess fishing capacity from groundfish to export species. As was noted in the East Coast Fisheries Federation's July newsletter, "the one frantic message during the 'town meetings,' and other public hearings during the spring was 'don't push the problem south.' The industry said it, the New England Council said it, the Mid-Atlantic Council said it. It was said in New Bedford, Point Judith, Riverhead, and Cape May. It was said to Commerce Secretary Ron Brown by the delegation led by Senator Pell."

Nevertheless, both the Loan Guarantee Program and the Fishing Industry Grants Program of the Northeast Fisheries Assistance Program are soliciting proposals by fishermen and processors that would have the effect of shifting capacity to underutilized or export species.

Furthermore, as we have previously indicated to NMFS, we're concerned that the loans and grants to fishermen directly affected by amendment 5 which support a shift of capacity to species not covered by amendment 5, and this could result in subsidized fishermen having a competitive advantage over fishermen already harvesting such species. This would adversely affect the economics of unsubsidized fishermen and place yet another sector of the industry at risk.

The issue of overcapitalization continues to require a direct and square—needs to be addressed squarely. Again you referenced that

in your opening remarks. Even before Secretary Brown's announcement of the relief package, industry members were largely agreed on the need for a buy-back. An industry group is working on the design of buy-back, and an interim report is available from East Coast Fisheries. Without a buy-back, the problem will again almost certainly be pushed south, exactly the fear Rhode Island has noted above.

However, even with a buy-back, it would finance exit strategies for some, but hardly all fishermen. More attention is needed to develop exit strategies for the larger and yet indeterminable number of hands and others idled by restrictions.

I am frankly frustrated by glib talk about retraining fishermen and other industry workers, family members, et cetera, who will be dislocated by amendment 5. We have the means to offer retraining of the Dislocated Workers Program. But the question remains, retraining for what? This region is still wrestling with workforce retraining issues associated with the end of the cold war. And we're now adding another industry segment to the list of idle workers.

Last I'd like to comment briefly on the family assistance center concept from the perspective of Rhode Island, and also I'm explicitly speaking on behalf of my counterpart in Connecticut.

There is confusion and frustration over the mobile fishing family assistance center approach which the NMFS has inaugurated and seems determined to continue in its present form despite repeated requests for reconsideration. The use of the term "family" in conjunction with "assistance center" implies a range of services which NMFS does not and never intends to offer. It's not their job. In those areas where NMFS has established permanent centers they are colocated with State and local job training and service providers. This is not possible with the mobile center approach unless the NMFS FFAC fisheries specialist is colocated with local providers on those days when he or she is in State.

We would prefer a one-stop shopping arrangement which is not possible if the NMFS specialist goes directly to a port. If the only individual a fisherman sees is the NMFS representative who has information and applications for Federal assistance programs only, they may well miss connecting with the person that they need to see regarding job training and family services.

Conversely, family members seeking information and assistance are going to be disappointed, confused, and discouraged if they seek family services at a mobile FFAC only to find out they've gone to the wrong office.

We strongly believe that in the absence of a permanent facility that the current approach by which the FFAC coordinator visits local ports in four States attempting to reach fishermen directly serves to dissipate the resource. We envision as an alternative having the NMFS FFAC fisheries specialist work more directly with State and/or local employment and training agencies and human service providers. In essence, as a NMFS liaison to us rather than someone who goes directly to the effected fishing community. The specialist could provide information and training to our local people who would disseminate the information and receive applications when the coordinator is in another community.

I'd like to add one final comment before concluding.



We are also concerned that other Federal initiatives underway may combine with the restrictions on groundfishing to overwhelm an industry already trying to adopt to dynamic changes. Clean Water Act requirements on processors and the new Food and Drug Administration regulations due within the year will affect virtually every segment of the industry from harvesters to retailers.

While the commercial fishing industry is hardly unique in having to respond to regulations from multiple sources, its historic independence and lack of a well-established central communications network makes it singularly susceptible to being overwhelmed by simultaneous demands for compliance. This situation underscores the need for close and continuing coordination between Federal agencies and the Federal Government and State and local governments in all matters pertaining to commercial fishing industry, not just the amendment 5 restrictions.

I'll wrap it up there. Thank you very much.

Senator KERRY. Let me thank you very much. Those are important points.

What I would like to ask, though, if I can, is if you have a prepared testimony, it will be placed in the record in full as if read. I really want to ask you to summarize it and truly to do it in 2 minutes or so, otherwise we are not going to have a dialog here. We can chew up the entire morning if we go around the table and simply receive testimony.

So, the purpose of the roundtable is to truly have a roundtable. I am going to start saying to folks—I'm going to give you a little notice around 2 minutes and you can wrap up in 3. I am not trying to cut anybody off. You will have plenty of time to give the full gist of observations, but I think it will be more dynamic and will get others involved more if we can go around.

I am going to skip John because I want him to react to everybody.

Mr. BULLARD. In 2 minutes.

Senator KERRY. I will give him a little extra time to do that because of the breadth of some of the things that he is working on. He will be the one exception. Doctor, do you want to pick up here?

#### STATEMENT OF DR. WILLIAM HOGAN, PROFESSOR, ECONOMICS DEPARTMENT, UNIVERSITY OF MASSACHUSETTS AT DARTMOUTH

Mr. HOGAN. Thank you, sir.

Senator KERRY. I think you will all find it will be a little more fun, too. We will all get a little more energy going here.

Mr. HOGAN. William Shakespeare said and we all believe, "Brevity is the soul of wit," so we'll try to be brief.

Thank you very much, Senator, for inviting me to come and testify here this morning.

I'd like to welcome you on behalf of UMass, and particularly the Dartmouth campus. I hope you have some time to look around.

You mentioned earlier the coincidental or fortuitous change of dates involving the week's delay and the coincidence with the Canadian situation, but it's also fortuitous, I think, that the week's delay has allowed us to schedule this during the city's festival, summer festival, and I hope you have a chance to take a look at

some of those and enjoy some of the city as well. The *Bounty* of Fall River is out there. I guess the *Ernestina* is out there somewhere. There was, I think, supposed to be a Coast Guard cutter, but I think that's probably steaming north somewhere. There is a lot here. I hope you have a chance to take advantage of it. Thank you.

Senator KERRY. Thanks very much.

Mr. HOGAN. Let me try to reinforce some of the things that Senator Kerry has mentioned earlier. In particular, the fact that this is an international crisis. We are not alone as a nation in dealing with this. The fisheries around the world are threatened. It is a worldwide crisis of international proportion. It is a problem that many, many countries have attempted to deal with, and almost none of them successfully.

From that, I would tend to conclude that the problem with managing the fishery is an extraordinarily difficult problem. There may have been some successes in Australia, that may be a lesson, and within the limits of 2 minutes I'll try to very, very briefly allude to some of what has happened there.

But a point that needs to be stressed in particular, that in the context of trying to reauthorize the Magnuson Act, which is essentially the brief way of saying how do we manage this fishery resource in the United States and its international implications, it is extraordinarily difficult. We have really no successes to look to anywhere in the world.

And so anyone who says "yes, I as an individual have the answer" I think automatically should be discounted.

One conclusion that I would like to stress is that there is no simple answer to this, and there is no single individual or group of individuals or perspective who would be able to provide an adequate answer to this issue of reauthorizing this Magnuson Act and managing the fisheries of the United States. There are a number of aspects of this reauthorization that look forward to the future, and so let me stress here again some of the issues that have been mentioned earlier this morning are immediate issues, and I don't want to downplay them. They're extremely important. They require immediate attention.

I and others, less so than many of the others in this room, have spent a good deal of time thinking and talking and coming up with proposals to address these immediate problems. The agenda this morning, as I understand it, is to look forward into the future to look at the longer term to try to come up with some specific suggestions or at least ideas or concepts for the reauthorization.

In 1968, a biologist named Garret Hardin wrote an article that has now become a classic called "The Tragedy of the Commons." The fisheries are a common resource. They have been overfished because everyone as an individual has an incentive to catch all the fish as fast as possible, and none of them have an incentive to conserve the fishery.

The procedures in place in the prior authorization in the Magnuson Act have not effectively, nor has anyone else in the world for that matter, effectively addressed that unfortunate economic conflict.

So, I would urge that there be a study. I don't have the answers. I don't think any one individual has the answer. But I would urge

a very careful consideration of some experiments in this reauthorization of the Magnuson Act, in particular to allow the concept of developing a property right in the fishery, and to be assigned—have that right assigned to individual fishermen. This goes beyond an individual transferable quota or ITQ system which may not convey a property right.

I can say this quickly, because my time is almost up, this is an extraordinarily difficult political exercise to engage in. It is not simple.

The other message that I would like to convey here is the extraordinary lack of information we have. The three Presidential administrations prior to the present one systematically cut funding for statistics, for economic and other data. We are extraordinarily in the dark about the actual truth.

You hear these kind of loose, off the cuff, informal, and always anonymous comments that landings may be as much as 50 percent underreported. Nobody knows. To some extent that's part of the pain. An accurate reporting system is indispensable to an effective approach to managing the resources. We need more statistics, we need more information, we need to systematically beef up the collection and dissemination of that information. Thank you very much, Senator.

#### **STATEMENT OF MRS. GAIL JOHNSON, MAINE FISHERMEN'S WIVES**

Mrs. JOHNSON. Thank you.

As Senator Kerry has said, I'm a founding member of the Maine Fishermen's Wives Association and of the Blue Water Fishermen's Association.

My goal is to have a viable fishery that employs a great number of people, allows a healthy marine biomass, and provides a product to the Nation at a reasonable price.

We need to be reminded, as we're talking about going forward, of the basic principles of the Magnuson Act. And in my opinion again, they are: one, dividing the Nation into separate areas because of differing socioeconomic systems, issues, environmental systems.

Two, understanding that the populations of fish stocks are in a continual state of flux. They're neither up nor down all at the same time.

Three, aside from intrinsic value, fish stocks highest value is food.

Four, recognizing that fishing is the social and economic basis of many coastal communities.

Five, understanding that management decisions must include carefully considered projections, both long- and short-term, of the effect of those decisions.

And I might add parenthetically that the State of Maine has no unemployment compensation for fishermen.

The proposed amendments to the Magnuson Act, most of them right now, seem to act as bywords of disenfranchisement to many fishermen. The proposals seem to be directed toward large corporate entities or their representatives, and the individuals who are the majority of the harvesters are feeling categorized as cheats,

scofflaws, and profligates of our natural resources. And to the contrary, many Maine fishermen are our town selectmen, little league coaches, planning board members, and so on.

Addressing the Magnuson issues, please remember that fishery management is an inexact art affecting an inexact science. Each area needs to understand what it wants from the fisheries. Do they want the greatest employment? The highest efficiency, whatever efficiency means? Zero discards? Seeing the means necessary to achieve these ends may prove unjustifiably costly.

To summarize, I'd like to remember why Magnuson was created. It's achieved its objective of Americanizing the fisheries. Fish are not trees, they don't grow on observable acres. Fisherman have about the same percentage of scofflaws as any other segment of society, and they don't deserve the bad rap now any more than they deserved the romantic pap of a generation ago. They do deserve honest, earnest representation on the councils. They deserve goals that are attainable over a term long enough to assure the continued existence of many of the individuals and coastal communities who depend on them.

Thank you.

Senator KERRY. Thank you. Chip.

#### STATEMENT OF CHARLES H. COLLINS, WINSLOW MANAGEMENT CO.

Mr. COLLINS. Thank you, Senator.

Let me summarize my comments as briefly as I can.

First and foremost, my sense was that the very well-intentioned, the goal of the Federal relief package was to perhaps put in place a system that would minimize the pain, the very legitimate and very dire pain in some cases of those people who are most affected by the current fisheries crisis, while putting in place a series of steps and procedures that would enable us to address some of the fundamental problems that are facing the fishery.

The history of this fishery, as I see it, is one of a real failure to address those fundamental systemic problems. We have treated the systems without really focusing on the disease time and time again.

My concern right now is that the current Federal relief package as it is currently constituted runs the risk of repeating that historic problem. We have put in place a series of programs right now that in the process of trying to minimize the pain is really going to be shifting effort, fishing effort on to other fisheries that may or may not be able to sustain that effort.

In that process, I think we are going to be potentially just delaying the inevitable without really solving the problems that created the crisis that we're in in the first place.

Let me just echo and underscore several comments that were made earlier.

First and foremost, the bureaucratic impediments right now to getting funding to those issues that are in need are very, very great. Both Mr. Griffith and Doctor Hogan commented on the fundamental lack of data that we have right now on the overall impact of this fishery. That is a critical problem. A large group of individuals attempted to structure a process that would have answered

some of those questions and developed that data, but unfortunately none of the Federal pots of money that have been developed through the relief effort were really suitable for doing that.

As a result, right now there is no capacity in this system for making any kind of a regional evaluation of the various programs and projects that are going to be, and that have been submitted and are likely to be funded.

Second, fleet capacity. As you mentioned earlier, my understanding is that the relief package as originally structured and envisioned included a long list of priority needs. Unfortunately, because of funding constraints, we only got so far down that list. The result is that we dealt with some of the refinancing issues, and in that process potentially, in my view, actually ran the risk of expanding the fisheries crisis rather than solving the crisis, but we have not dealt with a couple of fundamental issues, that includes the capacity and the composition of the fleet.

I simply want to underscore the importance of your continuing your efforts to focus on the issue of the development of a buyout or buy-back program. I recognize that buyout programs around the country have had a checkered career, some have worked and some have not worked, but it's incumbent upon us to try to develop a strategy for actively downsizing the fleet. Otherwise, the problems that we've seen recently and the recent action by the Canadian Government are going to be the start of, in my view, of a much longer term problem and an expansion of that problem.

Finally, vision. I would argue that for the last decade, perhaps since the implementation of the Magnuson Act, we have been involved in attempting to manage a fishery without knowing where we wanted to go. All of the stakeholders in this process have got to come together and attempt to address the issue of figuring out where we want to go, what is the size of the fleet, what is the composition of the fleet that is actually sustainable, ecologically and economically sustainable over the long term.

There are some encouraging steps in that direction. There's a group of leaders in the commercial fishing industry that has been meeting and has launched a process to attempt to do that. The council is taking steps in that direction. Those efforts need to be strengthened, they need to be encouraged if possible through the reauthorization, and we have to look at encouraging avenues for that kind of participation.

Senator KERRY. Good question. Good framing. Captain.

**STATEMENT OF CAPT. FRANK MIRARCHI, OWNER-OPERATOR,  
F/V CHRISTOPHER ANDREW**

Captain MIRARCHI. Thank you, Senator Kerry. Good morning and welcome to New Bedford.

I find it interesting that so much of the testimony so far this morning has dealt with the emergency assistance program and, in fact, we're talking in addition about the reauthorization of the Magnuson Act, which kind of underscores my point in being here today.

And that is that the extraordinary events of the last 6 months to a year are certainly critical, but they're not forever. Fishery re-

sources we hope are forever and there will be ordinary routine management of fisheries into the future.

My role today here, I think, is to speak for the fishery council. I am about to be replaced on the fishery council, but I've served 3 years as a member of the New England council.

Rather than paraphrasing my remarks, which people can read at their leisure, I'd like to tell you a brief little story about my history with the New England council.

When I began as a council member in 1991, I had just served on a Massachusetts commission which was very critical of the fishery council and general councils in general, and the New England council in particular with this management of groundfish.

On going to the council, I was somewhat skeptical thinking I would find a self-serving network of ole boys that were basically parsing out the groundfish to their own advantage. I was completely surprised, but really not so because I know fishermen, this was not the case at all.

In fact, what I found was a very dedicated and very frustrated group of people trying to deal with extremely difficult working rules, extremely sketchy and sparse information, and very mixed messages to what they were supposed to do. I've come out of the process with great respect for the council members, great respect for the council process, and would hope that that process will be strengthened into the future.

My written testimony provides specific recommendations that I would like to see incorporated into the Magnuson Act which would, I believe, further empower the councils.

My general message for my opening remarks would be this. Please don't micromanage the councils. Please try to retain the confidence that was articulated in the original draft of the Magnuson Act in 1976 that basically delegated power to the communities, to the people, the people in the fisheries, and the people around the fisheries, the conservationists, the recreational fishermen and commercial fisherman. It is where the best decisions will be made. This is where the fair decisions will be made. This is where the door is always open, where there is an opportunity for broad public debate and discourse, and where ultimately the decisions that will be of lasting value once this crisis has passed us will be best made and the public best served.

Thank you very much for this opportunity to testify.

Senator KERRY. Thank you very much. Captain.

#### **STATEMENT OF CAPT. MARK SIMONITSCH, OWNER-CAPTAIN, NANTUCKET SOUND FISH WIERS, INC.**

Captain SIMONITSCH. Senator Kerry, these are the seven points I'm going to make to you.

Those seven points for benefit of the roundtable discussion come from 28 years of fishing, every spring and summer in Nantucket Sound, and every winter except last winter running sea scallopers, fishing Georges Bank, raising my family.

I have good credit. I have no long-term mortgages. I catch underutilized fish, and when I ran my trap operation this year I could not catch enough fish to make a living.

You sit there, and you think over the years that if you can finally pay your mortgage off, that the money will all go in your pocket. This year I've yet to catch 50,000 pounds of fish. I've lost thousands of dollars. And my crew has made so little, a crew that's been with me, believe it or not, for 17 years, they may not come back next year.

So, I've chosen today to talk about solving the hard problem, Senator, and that's getting fish back. I'm not blind to the social problems and the unhappiness and the pain that exists in all our families and in the industry, but that's another subject that I can participate in later this morning.

I'm saying, Senator, if you want to solve the New England groundfish problem, we have to be prepared to close Georges Bank for at least 3 years on both sides of the Hague Line. None of this business like this year where we had area II closed and in June the Canadians opened their side and were landing those yellow tails and their trucks were coming down here with those fish. If you're going to have conservation then we close Georges Bank here and we close it in Canada.

Second, I would say to assign mandatory observers to collect data, which echoes some of the previous comments; to collect data for 50 percent of the vessel's days at sea in exchange for fuel payments for those trips. This kind of information is vital. The case has been made for improved assessments, management, better fishing, et cetera with improved data.

We need to provide fishery science education for commercial fishermen to make them equal partners in the recovery process. We're capable of learning what we have to learn. Farmers are bright people, we've got bright guys in our crews also, but we need to understand, we need to show these scientists that we can be an equal partner and we don't need a Ph.D. This will assist management and will give us greater respect for accumulating the data, and the understanding in the galley is important, that acquiring data is no baloney.

I think we need to develop hatchery and release programs, initially for codfish, to further our understanding of the biology and behavior of commercially important species and to rebuild their numbers. This will build a scientific platform, and this will complement the assessment workshops, this will complement the councils, and through enhancement we may actually increase the number of fish.

I think we need to build a world-class gear technology center to determine the overall impact of various gear types on habitat and fishing mortality.

And I suggest to you, Senator, that if we had taken all the money that's been spent by the draggers for cod ends, 5-inch, 6-inch, will it be 7-inch next year, we could provide the downpayment for that technology center. Some questions can be answered. Are circle hooks good, are gill nets bad, are doors and sea scallop dredges plowing up the bottom? These are not difficult questions, but we need to attack them to find the answer so that objective decisions can be made instead of all this wheelhouse thinking and tire kicking.

We need to increase the National Marine Fisheries Service funding and staff back to where it was before the Reagan years, and to ensure that NOAA distributes that money as you and Congress want them to have it; that it does get down there to NMFS.

I think, last, we need to establish sanctuary zones in which all forms of bottom gear are prohibited.

Managing reproductive habitat is fundamental to solving the problem. None of us find anything unacceptable about the ban on clearcutting timbers. That's so easy to understand.

The Federal Government passed a law in 1985 to be finally effective January 1 to combat soil erosion. Would you believe, and I come from four generations of farmers—the first one not to farm and ranch in the Dakota States—would you believe that farmers don't plow their fields out there anymore? When you don't plow, 90 percent of the erosion problem is eliminated. They have no till planting now. That's the kind of gear technology that can be developed if the Government gets behind us like they have agriculture.

I'd like to take the pile of money spent on agriculture by State and Federal agencies in New England, which is a nonagricultural region, and compare it to the pile of money that we get for fisheries, and I don't think you'd even be able to see our pile. I bet you they spent \$1 billion on that new tomato they developed this year, and we have no comparable expenditure in seafood.

So, to summarize, Senator, I'll put it down in about 10 words, we cannot have a seafood industry for future generations without fish.

#### **STATEMENT OF PETER SHELLEY, SENIOR ATTORNEY, CONSERVATION LAW FOUNDATION**

Mr. SHELLEY. Good morning, Senator.

I suppose I should ditto and pass the mike, but I'll be brief.

I am senior attorney with the Conservation Law Foundation, which has 7,000 members in New England, and the majority are in Massachusetts, as well as the Marine Fish Conservation Network, which is 70 groups representing about 5 million who are involved with the reauthorization, speaking here today principally for my CLF post.

On the Magnuson Act reauthorization, the network is starting from the Gilchrist bill as the place to start from. We think there's some improvements. But H.R. 4404 is where we think the Senate should at least pick up the debate.

There are a number of key items. I will save them until later. I think one of them certainly has to be looking at the council system.

We all know that the council system, particularly down here in New Bedford people know that the council system doesn't even work well to recognize, to reflect the economic interests of all the fishing community, but in terms of the ability to execute Federal policy for trust and stewardship responsibilities the council has no representation of the general public interest at large that is capable of pursuing that interest.

I think to focus my comments, I would say the No. 1 policy demon in New England is the issue of controlling access to these fisheries. I think that open access fisheries inevitably lead to the symptoms we have been experiencing over the last number of



years, and that this industry has experienced repeatedly over the last several hundred years.

I'm not advocating ITQ's, but I think we need to start wrestling with the issue of controlling access. And there are a lot of ways and schemes that could be devised with the participation of fishermen that would incorporate regional values and preserve the community life that people feel is important.

In order to do that, however, I feel very strongly that the prohibition against the Secretary of Commerce from moving forward unlimited access, which is built into the Magnuson Act, must be eliminated. And if councils fail to address overfishing problems in their fisheries, the Secretary of Commerce has to be empowered to proceed with a controlled access scheme implemented from the Federal level.

The second issue that hasn't come up but I feel sort of with my antenna is looming on the horizon are the implications of GATT, NAFTA, and now the Law of the Sea Treaty process has been started yesterday, I believe, at the U.N. Those international initiatives as well as the Brazil conference will have profound implications on all regions of the world, and I think we are completely blind about how they may affect us in the future. We need to bring that debate forward.

I want to talk a little bit about amendment 5. Amendment 5 can't possibly work. Anyone who thinks that amendment 5 can possibly work at this point is a fool.

When it was being drafted by the council, repeated assurances were sought from the Commerce Department that resources would be made available to deal with this far more complex management strategy. Now we have it in place, and we have fewer resources than we had before for a plan that didn't work on its own right.

Amendment 5 for all of its benefits or its weaknesses can't possibly even begin to work given the resource commitment to it. I think then if the Government is serious about working with the fishermen over time, which I believe in strongly, the Government has to realize what the institutional and resource requirements of doing that are. Miles Horton wrote a book called "The Long Haul," and that's what it is when you're working with a community that's coming from where many of our fishermen are in terms of institutional capacity and trying to bring them in in a management capacity in a responsible way.

If the Government isn't going to do that, that is probably—that's a matter for the Government to decide, but it shouldn't hold out the promise to fishermen that it wants to incorporate their views if it's not prepared to bring some resources and institutions forward that could help them do that.

And then finally, I think we need to develop a positive economic vision for the Gulf of Maine and its marine resources. I get this sense that we're kind of managing the collapse of the fishery, and that's all we're capable of.

There's a tremendous opportunity for the Federal Government, for the academic institutions, we have heard some of this today, to start developing a positive economic vision that goes beyond fresh fish. I think there are certainly opportunities in fresh fish. There have to be opportunities in biotechnology, genetics, other marine-

based industries we could explore. Fishermen could not develop that kind of vision their own, they don't know what's out there. We need to bring in the processors. We need to bring in the other sectors of this economic sector to forge a positive vision and then make it happen.

And I think that is probably one of the most fundamental missing pieces in the mix at the moment, for me anyway.

Thank you.

Senator KERRY. Thank you very much, Peter. Very helpful.

Bruce, I know you had to arrive a little late. You missed the glowing words about you, but your ears shouldn't be burning.

### **STATEMENT OF THE HONORABLE BRUCE TARR, MASSACHUSETTS HOUSE OF REPRESENTATIVES**

Mr. TARR. Thank you, Senator. It's good to be back in New Bedford, the sister port of Gloucester, and see so many folks and friends who are working so hard at making this industry work. I want to thank you for this hearing and this opportunity.

I think when we look at the reauthorization of the Magnuson Act, it's particularly important right now to try to develop a framework which would allow us not only to transition, but to maintain sustainable resources.

I speak to you today not only as the State representative from the city of Gloucester, but I am also the president of Gloucester United, which is a group of over 200 individuals which are not just fishermen, they are bankers, lawyers, retailers, members of various chambers of commerce.

The fact is that we realize the interdependencies of our economy, of all of those people we've joined together to try to work with you and work with others. We appreciate you giving us this opportunity.

I also just for a minute want to recognize two gentlemen who I have the pleasure of serving with, Representatives Quinn and Strauss, and remind you that we have filed legislation in Massachusetts which will provide for an additional \$15 million of assistance to match the work that's being attempted by the Federal Government.

I want to touch very specifically on a couple of points.

And first of all, let me speak to the emergency situation that we have, and then go into Magnuson reauthorization and do that very, very quickly.

First of all, the primary problem that I see with all of our fisheries and all of the aid, and almost every person at this table has touched upon it, is we still have not addressed the critical problem of long-term debt that's being carried by the folks in the New England fishery. I would suspect that the lack of addressing that communicates a very serious problem, and that is that we don't know where we're going, and therefore we don't address long-term debt because we don't know what we want to do about it. I think we need to go forward and certainly work toward that.

Second, I think that we would be suffering far less of the problems that we're currently suffering if we didn't tolerate economic waste. It's absolutely redundant to say there is a difference between fishermen and conservationists. Fishermen are conservation-

ists. Their future lies in the sustaining of this resource for generations and generations to come. It is not in the best interest of conservation to tolerate, if not require, the discard of thousands and thousands and thousands of pounds of haddock on Georges Bay. Those catches are incidental to the fishery. They've been planned according to National Marine Fishery Service into this plan, so the only folks that are being hurt are the fishermen that are being caused to suffer the waste.

That being said, let me talk a minute about Magnuson reauthorization and the real opportunity it provides.

First of all, I can't agree more with Captain Mirarchi with the strength of the councils. This is a democratic government, and the councils represent the very best of our democracy in dealing with the resource. I think we need to maintain strong councils, make sure they have adequate representation, and do two additional things.

No. 1, it's already been mentioned the councils are based on science, and they ought to be. We ought to empower fishermen to have access to more science.

No. 2, we ought to be allowing the councils to make specific economic recommendations that go along with the development of the plan. Peter has already referenced the fact that amendment 5 does not have the adequate resources to be carried through without serious, serious consequences to our ports. If the councils were required and empowered to make economic recommendations as well, they could consider the entire situation not in a vacuum but as a whole.

Last, and certainly not least, I think we need to remember that what we're dealing with is not only wildlife. What we're dealing with is a protein resource for the entire world. We need to remember that.

The people we're dealing with are not hunters, they are seafood harvesters, and that's very, very important. They have the ability to collect the data, they have the ability to participate in the decisions. But we need to step up to the plate as a Federal Government and as part of the Magnuson Act reauthorization and let them do some of the data collection, empower them to have access to the science, and last and not least let them develop a vision process.

In Gloucester just a few months ago we had a harbor conference that was attended by over 300 folks using the total quality management process to bring all of the sectors together and work out solutions to these very complex problems. There's also a situation being undertaken in Maine, I understand, and in several other locations. We need that vision process, because without that we're left to relegate the decisionmaking to a bureaucracy. I don't want to insult the bureaucracy. The fact is we're dealing with very sensitive issues they will not have the respect of the people we regulate unless we have full participation in the process.

That will be the hallmark of my comments. I look forward to the discussion that's going to ensue.

Again, I thank you for the opportunity.

Senator KERRY. The only advice that I could give you is don't hesitate to insult the bureaucracy.

Before I turn to John Bullard, I want to congratulate all of you on some important comments, and I think there is a great deal of substance that has been laid out in front of us.

I particularly am impressed, I must say, by Captain Simonitsch's suggestions. I think some of you reacted that way, it is a no-nonsense, hardhitting, straightforward approach, and frankly that is what is needed.

I have been at this for 10 years now, not as long as some of you, but I have been deeply immersed in the legislative end of it. I have watched promises get broken and great concepts fall by the wayside.

I respect the fishery management councils, Captain Mirarchi, but the fact is, the truth is, that councils represent the regional interests, and they have sometimes been afraid to come to closure with some of the tough decisions. And no council really has wanted to bite the bullet early because you have a natural reluctance to impose difficult restraints.

So, it is very difficult for a council to impose on itself the full measure of effort that has to be taken. And the truth is some councils have just avoided it and avoided it and never come to a decision.

So, I want the most democratic process possible, but I also want closure. I want a decision made, and I want it to be something that we can all understand and live by.

I think, Captain Simonitsch, you have laid out a very reasonable and rational proposal here which we are going to have to think hard about embracing in some form.

And, Peter Shelley of the Conservation Law Foundation also has laid out several tasks we need to discuss here. We must not just manage the collapse of the fishery. If all we are doing is guaranteeing that these grants are getting out better or that there is money there to stave off a few fishermen from disaster, we are not addressing this problem.

We must deal with the long-term view of the fisheries, and the idea that we are going to leave something behind us so that fishing is always part of the culture of Massachusetts, not something like other industries lost as we look back on it.

With that quick insert, let me turn to John Bullard. I will give him a little more time, then we are going to begin to really get at each other, let us talk about how we put this long-term solution into place.

#### **STATEMENT OF JOHN BULLARD, DIRECTOR, OFFICE OF SUSTAINABLE DEVELOPMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE**

Mr. BULLARD. Thank you very much, Senator.

I will summarize my written remarks and also try and touch on some of the themes that have been raised here. I know some of the individual issues we can deal with as we get into the roundtable portion.

I'm grateful to you for inviting me back to my hometown. It's always nice to have an excuse to come back.

We are dealing with something that is not only a resource problem, but also a problem of human dimension. And part of the sub-

ject of this hearing is to deal with better ways to manage resources that you will wrestle with as you reauthorize the Magnuson Act.

My counterpart, Rolland Schmitten, who heads the National Marine Fisheries Service cannot be here today, but I would like to submit his testimony for the record.

Senator KERRY. Without objection, it will be placed in the appendix.

I am the only Senator here. No one is allowed to object. This is easy, folks.

Mr. BULLARD. I will concentrate, therefore, not on my position on Magnuson, but rather what we're doing on assistance.

But I do want to make sure that in testifying that I do not convey the feeling that this is an issue where if we put some money—or how we spend \$30 million, that's the answer to the problem.

The answer to this problem is improved management. The efforts of yourself, Representatives Studds and Frank, Senator Kennedy, other members of the New England delegation in bringing this issue to the forefront resulted in amounts of money being made available to address the economic consequences of both the depleted resource and management cutbacks. It began with \$1.5 million in the Northwest Atlantic Fishery Reinvestment Program, and got built up to a \$30 million pot of money announced in March, and we continue to seek additional resources.

We are working with other agencies beyond the Commerce Department to try and find the most intelligent ways to respond to this situation. The money that you initially made available, the \$1.5 million, is being administered through a cooperative agreement with the National Fish and Wildlife Foundation. We are doing that because we think they can identify private foundation sources, and leverage that money into more.

We have already received a number of good applications. We expect to make announcements within the next couple of weeks on how that \$1.5 million backed up with other private sources, will be spent, at least how the first portion of it will be spent.

We have established family assistance centers, as several of the speakers have talked about. They are undergoing growing pains. We are in the process now of retaining more permanent staff, having initially staffed them with detailees on a temporary basis. They are permanent centers in New Bedford, Gloucester, on the Cape and in Portland, and there are mobile centers to deal with the far-flung ports in down east Maine and further to the southwest.

It's important to understand that we want to work with States in doing this, and the State of Massachusetts was the first to ask for Department of Labor funding, and their funding for these centers is in excess of what we're doing. And that provides access to labor, retraining and so on. Maine has also recently asked for support and has gotten an award from the Labor Department to do the same kind of thing. We would hope that we would get a similar kind of participation in Rhode Island, Connecticut, and the other ports.

On July 11, the Economic Development Administration announced an award of \$6 million in grants to fishing communities. This testimony was prepared for your first hearing. Since that time they've announced a couple of other awards, so the EDA awards

are now just short of \$8 million. They include \$2.5 million to New Bedford, \$1.5 million to Gloucester, \$1 million to the State of Massachusetts, as well as grants to Rhode Island, Connecticut, and others, and we expect all of the \$18 million in applications are going to get out in the next few weeks.

The National Marine Fisheries Service announced, on July 8, the availability of fishing industry grants or FIGS, and we have been conducting meetings at the family centers, two at each center, over the last few weeks. I think there was one in New Bedford a couple of days ago on that. I have applications here with me for anyone wanting to apply for that money. There's a deadline of August 22. This is the first \$4.5 million, and that money requires no local match. It's 100-percent grant. After that is done, then we will do the process for the second \$4.5 million. There will be a local match on that.

The other thing that I want to mention is our work with Small Business Administration. As I said, we're trying to involve other Federal agencies. The Department of Labor has come in with both feet, the Department of Housing and Urban Development is making money available at the request of the mayor of Gloucester.

With SBA, we try to raise the issue that Representative Tarr raised, of long-term debt. Recently SBA has developed a program national in scope for fishing communities, but really brought to their attention by fishermen in New England. It is a commercial fishing industry loan guarantee program where SBA would work with a vessel's lender to see if there's a way that that lender can put some part of a loan on standby or forgive part of an outstanding loan, and in return SBA would guarantee the remainder. What that would result in for fishermen, and this is an issue that Chip raised in his report—the pressure the debt exerts, is to go out and fish the extra dates, the extra effort, and the connection between relieving the pressure of that debt and relieving or reducing effort. But if we can combine a reduction of the loan with a guarantee, then it's possible to both lower the balance and lower the interest rate, and that could cut the monthly charge in half.

Again, this is a program that SBA has created. It's also important to note that they have, under normal circumstances, a requirement that says to qualify for SBA loans you have to have always been within 29 days current. Because of the nature of the fishing industry where you're out for 2 weeks, that would rule out most fishermen, and so in this case that 29-day provision is going to be waived.

Finally, a report that our office has been working on to try and identify needs is in final stages of Department review and we hope will be released shortly. We think that the effort that we are working on in partnership with fishermen, with the councils, with local officials, with State agencies is a different way to look at an intractable or a previously intractable resource issue.

We are also, as you pointed out, Senator, in your introductory remarks, trying to apply some of the lessons we are learning here to issues in the Pacific Northwest where we have completely shut down ocean salmon fishing.

Let me just quickly touch on some of the problems that have been raised by previous speakers.

I think first and foremost the problem is one of expectation, and that is, as Gary mentioned, people would just like to keep fishing and have their losses covered. That is a totally unrealistic expectation. That is not going to happen. That's not going to happen because the resource won't allow it, and that won't happen because we don't have the printing presses to print the money that that would require. We are working with a \$30 million pot. And it's important to put that in perspective at the hearing here in New Bedford. It was pointed out that New Bedford losses in landings alone from 1992 to 1993 were \$50 million. That's in 1993 before any of the provisions of amendment 4 for scallops and amendment 5 for groundfish took place. So, that is a 1-year loss to one port of \$50 million, not including multipliers. So, to understand what we're trying to work with as we fashion the best way to spend \$30 million, we need to understand that it simply cannot make up for the losses suffered in this port and in the Northeast in 1993, 1994, 1995 and all of the years which the constraints are going to increase.

Second, you have witnessed here in testimony some of the conflicts we are trying to deal with, the conflicts between the need to get money out to alleviate immediate need, versus the desire to hold back spending any of the money until we have a vision process in place. Now, we can do one of those or the other, but it's hard to do both of those.

You're also getting a sense in the testimony about regional conflicts, how folks in some ports would like to be able to fish unencumbered by any review by the National Marine Fisheries Service and yet folks in other ports have said we cannot allow the shifting of effort from one part of the region to another. There are reasons put forth why we cannot move into aquaculture, why we can't move into underutilized species, why we cannot do almost anything. The only thing I know is we cannot do what we've always done. Change is inevitable.

There was also an issue raised about State relationships, and clearly I want to reemphasize that we've developed very good relationships with some of the States. We look forward to their participation. We look forward to the State of Massachusetts following up on Representative Tarr and other members of the delegations' initiative to bring other significant resources.

The other conflict, another theme that's been raised by Chip and many other speakers, and yourself included, is the need to reduce capacity. And the fact that while there's a lot of support for vessel buyout in this \$30 million, there is no money for that. Secretary Brown has said that he wants to keep this issue on the table. We are working with an industry group, and hopefully we can identify how a buyout process would work, what it would cost and how we would raise the funding for it.

The last thing I'd like to respond to is the issue of private initiative. These grants require private initiative. In applying for the fishing industry grants, we are asking people to think a lot. The application is only 4 or 5 pages, but it requires someone to think about a new way of fishing. It requires a person to think about something that will benefit not only themselves, but the industry at large. It requires private initiative. And whether it's the develop-

ment of aquaculture or gear technologies that will reduce waste and discard, these are the kinds of things that we would like funded with those fishing industry grants. Similarly, the money EDA is making available through local revolving loan funds will respond to suggestions and plans at the local level. So, these are some of the problems we are wrestling with and that is a very brief summary of how the money has been distributed so far.

Thank you, Senator, for the opportunity to present that.

Senator KERRY. That is a good summary, John, and it is a good opening to where we go. It underscores the tensions that exist here.

I would like to divide up a number of different areas; enforcement, by-catch, financing, et cetera, to talk about here. I am going to try to be the policeman in the discussion, maybe move it off at one point or another.

But I want to begin with one of the toughest issues of all and get a sense of where people feel we ought to go on it.

Captain Simonitsch, you have talked about closing Georges Bank from both sides, and I have to agree with you that it's an option which should be considered. I think a moratorium for a period of time would be not unlike the striped bass moratorium. It may be the way you are going to bring the fishery back. We've got great striped bass fishing out there today.

The issue is, you do not want to simply bring it back the way it is today. If you close it for 3 years, then you reopen it and everybody goes there with the same level of fishing, and, crash, effort, you are right back where you started.

So, given the statistics that I gave you earlier, which are that you could reduce the fishing fleets of certain countries by 40 and 50 percent and still catch as many fish, and we all understand it is overcapitalized, the big issue I want to talk about first here is; is there anybody here who disagrees and wants to suggest that we do not have to reduce the overall access?

And if you agree and there is general agreement that you have got to have limited access, then help us to understand the fairest and best way of creating a limited access system. How do we do that?

Mrs. JOHNSON. I disagree that you absolutely have to have a limited access system. The point is right now we have one, we have a moratorium.

The fishing industry, at least the dragger fleet, has been decreasing, perhaps not in the amount of effort, but in the numbers of vessels. And one of the things that has characterized the New England fisheries is their cycles. New Bedford has seen disasters before, and so has Portland, ME.

I don't have a good, clear answer, but I do not think that limited access guarantees a healthy fishery.

Senator KERRY. Captain, do you want to disagree with that, or respond?

Captain MIRARCHI. Limited access to fisheries, limited access to microphones as well.

The point I'd like to make is limited access doesn't necessarily guarantee the long-term viability of the resource.

What limited access does guarantee is that people in the fishery can reap some of the rewards of their sacrifice. There needs to be



controls on mortality of fish, which is totally independent of the number of people.

Senator KERRY. Let me ask you a question.

If everybody has accepted that there is too much fishing effort and there are too many boats, how can you survive and pay your mortgage if you are fishing to a degree where your catch is insufficient to pay the mortgage?

Captain MIRARCHI. That's my point. The access benefits the fishermen more than the fish.

I'm in agreement that there needs to be limited access. Maybe you misunderstood my point. I agree there should be limited access. My point is limited access per se solely with no other measures in place does not guarantee long-term viability.

Senator KERRY. I totally agree with that. It depends on what the limits of access are. If you limit the access to a level where the fleet is still sufficient to be able to overfish, you obviously haven't done anything; correct?

Captain MIRARCHI. Absolutely correct.

Senator KERRY. If you limit access in a way that is managing sufficiently the catch level so that the reproductive cycle works, notwithstanding whatever natural disasters and other factors we don't understand that are at work, then you are basically achieving what is known as a sustainable fishery level.

Captain MIRARCHI. Perhaps I'm misunderstanding you, Senator. Are you saying the only thing you need to do to protect the fishery is to limit access?

Senator KERRY. No.

Captain MIRARCHI. We're in agreement. You're putting emphasis where I'm not.

Senator KERRY. Mrs. Johnson said "No, you do not need limited access." I for the life of me do not understand how you can continue to have even incentives in a system for people to get into it, know that it is overcapitalized, know there are too many people chasing fewer and fewer fish, and not suggest that you have got to begin to diminish the number of people out there.

Captain MIRARCHI. You and I are in agreement.

Senator KERRY. How can you assert that?

Mrs. JOHNSON. It does go back to the lack of vision. It depends on what you want from the fisheries.

If you're looking for—I come from Maine, OK, Maine has a different outlook on some of these things. Perhaps this won't work in Massachusetts.

But in my State, there are a number of coastal communities made up of smaller fishing vessels. They depend on the fisheries. One of, as I said, one of my goals is a healthy—is a viable fishery that has a lot of people in it. When you limit access, often the response is to get a bigger boat, and a bigger boat isn't going to spread out the benefits of employment. When you limit access, people always respond in a way that's favorable for their own business.

I'm not saying that open access is the answer, obviously it's not, it got us into trouble. I don't think limiting it is going to make it better.

Senator KERRY. Let me ask a question then, because that goes back to what the Captain said to me.

You are not saying just limited access is the only measure, I said no, it is not, because of the very thing you just described. Clearly you also need management with certain restraints for those who have the limited access, because if you do not have the conservation ethic among those who have limited access, you are right, they may get a bigger boat or they may go out there for longer hours and simply wind up doing the same amount of damage.

So, it is, it strikes me, a combination of factors that is going to make a difference.

Did you want to comment?

Mr. SHELLEY. I want to raise three points.

One part of the problem with this policy discussion is you're trying to engage a group of people from Virginia to East Port in a concept that, No. 1, people don't understand very readily and who have very different driving forces in terms of why they're fishing, and what they're wanting to get out of it. I think part of the problem is we're trying to apply too broad and general a concept over too big an area.

And maybe we need to talk about zones or something that brings it back down to levels where people can fit their own style into it.

The second element is most of the access limitation programs that have been discussed give advantages to people with capital or access to capital.

Senator KERRY. I was about to ask.

Mr. SHELLEY. That's not the only way.

Senator KERRY. In addition, do we need to have a distinction for folks like those in Maine who are, and even here, who are local owners, small investors, single boat folks for whom it is a way of life, versus those who are put out there by large investor driven efforts for whom it is simply, you know, money invested? It's almost in many cases fungible.

Mr. SHELLEY. I have been asking myself that question with no answers popping up, but it strikes me that with in-shore fisheries there is literature on fisheries and other schemes that aren't based on attaching market value to fishing rights that seem to be successful in controlling effort within the range that Gail is talking about that the fisheries go through naturally.

With respect to the offshore fisheries with the bigger boats, you could control access by limiting how many captains you licensed in a zone, in an offshore zone. And that, I'm not promoting that, but I'm saying that would be another mechanism.

Senator KERRY. I want somebody to promote something. I want to hear any ideas you have to offer.

Mr. SHELLEY. I'm working on that. I haven't done the detail work.

Mr. DAVIDSON. It has been slow. Nobody's done any work.

Senator KERRY. Let me ask if there is anybody else here who has a vision about the most—we are going to get to the audience in a while—who has a vision about the most equitable way and sensible way to approach this question of limiting access and ensure effective management at the same time.

Anybody else want to tackle that?

Mr. BULLARD. I'm not going to tackle it directly, Senator, but let me point out one of the things that is going on right now within the industry. And that is how do we achieve a shared vision?

In mid-July, over a 3-day period, industry representatives from Cape Hatteras to Maine got together to begin that process. I think they are going to have a second session August 21 and 22, and they will broaden participation in that to the environmental communities, the management councils, the National Marine Fisheries Service, and others. It is a very difficult task.

One of our expectations when we first started talking about this is we might have a vision statement by July 1. That was an unrealistic expectation. Maybe July 1 of next year. But I hope that this process will tackle the very complicated issues that you're raising right now, such as limited entry and limited for whom and impact on coastal communities. And as Frank said, "if you do it, you can think that's the only thing you're doing."

Senator KERRY. Well, yes. Bruce.

Mr. TARR. I want to take a crack at a couple things.

No. 1, I think there's a difference between limited entry into the fishery and limited access to the grounds. To some extent we have limited entry presently because we do have a control data.

And one of the major problems we've seen in these fisheries are inactive permits. That is since the time of the original passage of Magnuson, people were encouraged to get into this fishery for a variety of reasons because we thought it was in the best interest of our country.

Now we have several more permits that are active. As those begin to get weeded out by the economic factors, you'll see capacity diminish.

Senator KERRY. The minute the fisheries come back you do not suddenly want a reemergence of the same level of effort.

Mr. TARR. There will be economic attrition.

Senator KERRY. Correct. You want to grandfather those who may stay in?

Mr. TARR. Once the permits have gone under amendment 5, to a large extent they're gone, and we need to continue to look at that and we need to maintain an active fishery. That may be a problem in the long run, to let people get back in. Let's not consider that for a moment.

I think the second question that was raised by the Captain is one of limited access to particular grounds. I think to get at that we need to have a better understanding than we presently have of the reproductive cycles of some of these fish.

I'll give you an example.

Amendment 5 groups 10 different species together. We know from common sense, if nothing else, that those 10 species do not have common reproductive cycles and don't have common growth rate and don't have common habitat needs. We need to begin to understand those differences, and then look at a situation like if we know they're spawning on Georges Bank, as we do, in spring, then we need to look and begin limiting total access to that. If we maybe make a statement that it's disruptive to run a dragger along the bottom, then it's disruptive to have anything.

Senator KERRY. Let me ask a question.

Do we have any draggers or scallopers here in the audience?

I'd like to just ask you to stick to this one issue for a minute. We'll come back. Would one of you like to react to Captain Simonitsch's concept of closing Georges Bank for 3 years to fishing on both sides of the line?

Mr. SLOWE. Ben Slowe, been fishing 25 years.

It's great you have no mortgage, you owe nobody money. Anybody else here? I don't know of anybody else. I'm not in that situation.

To close the bank, as I see it—I listen to everybody here, and the most thing that I hear echoing through you and him is that you believe this Canadian issue is going to happen again. To put it all in one form, to stop the entry of cod fishing, I mean seafood coming in from Canada would bring up our value of our fish more and we would eat our own fish, and then we'd stay longer with less boats.

We can't close the bank. It's easy to close a bank down for 3 years. What do we do with everybody's job up and down the coast? We're all bankrupt.

Senator KERRY. What do you do if you have no fish to catch?

Mr. SLOWE. We buy our own fish. We stop imports from Canada coming in here. You go to jail, we eat our own.

Senator KERRY. What happens if everybody continues to fish and there are no fish left? Where will your job be?

Mr. SLOWE. We cut back the amount of time we fish. We don't shut the bank. The price of our fish comes up.

Let me tell you one thing about Canadian imports. Canadian imports are shipped into New Bedford for one-half the price, so we can sustain longer substantial amounts of time with less fish, less fishing time. That's what else it can do, less fishing time.

We do shut down, but we can't shut down all together. Most of us are not fortunate to have no mortgage. I got a wife and a bunch of kids. We're going to shut the bank down?

Senator KERRY. I understand that. That is why I am asking this question.

To follow your thinking for a minute, let us assume that we just do what you say, so you block Canadian fish, and basically then you are sort of declaring war between you in terms of fishing.

Mr. SLOWE. They've already done that; haven't they?

Senator KERRY. Let me finish. They go fishing as much as they want, we go fishing as much as we want, you may get more for your particular fish.

Mr. SLOWE. I didn't say that, Senator. I said that we cut back on our fishing effort. We're able to do that if we eat our own fish and stop the import.

Let's do something first. You said it, Mr. Collins also said it, that this is not going to be the first and last of this issue with the Canadians. They're international waters. They got our men in jail today. Doesn't make sense to me.

Governor Weld has \$6 million on the table for jails today. Is that to put fishermen in there?

Senator KERRY. Let us ask Captain Simonitsch what his response would be to that suggestion.

What's your reaction to the notion that you have access to the fishing by diminishing fish that come in from Canada and then they continue to fish the bank, what is your reaction to that?

Mr. SLOWE. With observers on the boat, I agree with you, with observers on the boat.

Senator KERRY. Captain, let me ask you to sit down. You have had your opportunity to speak. We will come back to you.

Captain SIMONITSCH. With respect, it doesn't make sense.

Senator KERRY. Why does it not make sense?

Captain SIMONITSCH. It doesn't make sense because we already know we don't have enough fish to sustain the domestic demand. That's why the Canadians come down. We need their fish. We fishermen don't need their fish, but consumers need their fish. The buyers need their fish. If they didn't have Canadian fish—if they relied only on our fish, could the few buyers that are left still sustain their operations? No. They have customers that want fish every day.

I might speak a little bit differently on that particular issue tomorrow, but I'm reacting to that question.

Second, you know, we've overexploited our fish. To me the logic isn't there. We can't supply the market when we have less fish.

In addition, imports from places other than Canada are here now that our prices are high on groundfish. I think everyone here knows that the Pacific fish is in our marketplace now. It kept the price of large codfish down this spring. Icelandic fish is available. Haddock, cod, arrive in Newark, NJ, airport every morning, because our prices are so high, or are high enough that they can compete with us.

So, if our prices go up more, it won't be just Canada and Icelandic fish imports, it will be someone else.

I'd like to comment to the Captain about the Canadian dilemma. I say shut their imports off for 30 days. We're their big customer. They want to fool around with our boats up there, shut them off 30 days. That's a lesson. We're not beating them up and blacking both of their eyes. Do that, and if they want the tail, we'll give them the tail. We'll make a deal. You give us the Northeast back, we'll support your claim for the tail.

And politicians can do this, I feel you're a leader, the diplomats and our elected leaders can meet with the Canadians unofficially. We're not happy with that Hague Line.

We took the court decision when we turned down private negotiations and thought we could do better with the court.

So, they want this so bad up there, let's make a deal.

Senator KERRY. Let me first keep going step by step here, folks. I want to keep the panel going. We will come back to you.

Captain, you had another comment?

Captain MIRARCHI. Yes, I do, thank you.

I'd like to respectfully disagree that it's necessary to close large areas of Georges Bank or any other groundfish producing area down. We're making the assumption here already before it gets going amendment 5 is a failure. I'm not ready to assume that at all.

Amendment 5 philosophically relies on reducing fishing effort at a rate where the fish stock will replenish themselves so there will

be minimum loss of income and no loss of jobs. A wholesale closure basically costs people's job. I believe gradual is going to work.

Senator KERRY. What if it will not? What if evidence shows it will not?

Captain MIRARCHI. When that evidence is present we'll react accordingly. That evidence is not present presently.

Senator KERRY. Let me now ask, I want to shift off this topic for a moment and ask about the area of enforcement.

One of the concerns that I am hearing from a number of fishermen is the failure of the enforcement system to catch and deal with those who do cheat. It undercuts the vast majority of honest fishermen out there, and they are worried about protecting the resource. You must have effective enforcement.

Where and in which fisheries are the biggest enforcement problems and how do we deal with it? Anybody on the panel want to tackle that?

Mr. GRIFFITH. I can't answer your question about where.

Members of the industry in Rhode Island have told me the solution to enforcement is to give NMFS the resources to do the things it has legitimately been tasked to do, such as enforcement. Send enforcement agents to sea. The way to stop the piracy is not to use Coast Guard cutters, but to use fishing boats which are manned by enforcement agents, disguised like an old "Q Boat" from World War II, and that will stop it real quick.

Senator KERRY. It is a source of need of resources for NMFS in your mind?

Mr. GRIFFITH. Again, this is what industry folks have been telling me.

Senator KERRY. Is there any fisherman here who wants to help us out?

Mr. DAVIDSON. My name is Hans Davidson, and I'm the owner and operator of a fishing vessel, scalloper out in New Bedford.

If you think they can stop people from violating the Hague Line.

Senator KERRY. Where is the greatest area of enforcement problem in your mind?

Mr. DAVIDSON. In scalloping it's the Hague Line. They've had submarines and they haven't been able to stop it. They have.

Senator KERRY. Stop who?

Mr. DAVIDSON. Stop Americans going into Canada.

Senator KERRY. You are saying that Americans are crossing the Hague Line and fishing?

Mr. DAVIDSON. Some.

Senator KERRY. And how could one enforce that? How could that be enforceable?

Mr. DAVIDSON. Renegotiate the Hague Line.

Senator KERRY. I happen to agree with you. I never accepted the Hague Line settlement as a legitimate one. I think the Reagan administration created serious problems for us. That is history now.

The question is generally speaking in enforcement, how can we do a better job of enforcement that is fairer in your mind? Does it require monitoring? Do we have to have people on the boats? I have been hearing stories of fishermen, who, when the Coast Guard comes up, they dump the catch over the opposite side. I have talked to a lot of guys who told me stories of how they get

away with it. I have talked to enough people that tell me how they get away with it to make me worry there is not sufficient enforcement.

Mr. DAVIDSON. The only way to enforce it, I know I'm going to get a lot of grief here, how can you cheat if the boat's tied to the dock? If you have to tie your boat to the dock for 2 months out of the year when the scallops are reproducing; how can you cheat?

Senator KERRY. In other words—

Mr. DAVIDSON. You don't need the black boxes to prove where you are.

What do the Canadians do? They fish up their quota. They've got plenty of scallops. When they fish up their quota, they stop. It's easy to see the boats at the dock, it's not breaking violations.

Senator KERRY. You are saying our problem is people go beyond the quota?

Mr. DAVIDSON. I think that's pretty obvious.

Senator KERRY. Any other thoughts?

Mr. COLLINS. Senator, several people have said today that comment on the obvious need to take steps to restore the budget for NMFS. In the decade of the eighties, the National Marine Fishery Service received the largest percentage budget cuts of any of the Federal natural resource agencies, and at the same time received one of the highest corresponding increases in regulatory and legislative responsibilities of any of the Federal natural resource agencies.

One of the areas that was hit the hardest was the enforcement budget and the enforcement program and several others. You can't put in place—if you're going to try to address the enforcement issue, you have got to try to restore the funding in that program. It's a fundamental.

In my view, the observer program, the observer program is not the tool to address directly the enforcement issue. Where the observer program has worked, including in the gill net fisheries, for example, in New England it has worked because of the confidentiality of the data that's collected and because the participating captains view the observers as someone who will fairly provide the data, but not play any kind of enforcement role. That program needs to be expanded, expanded significantly in my view. It's one of the few links that we've got between the scientific community and the fishing community. If you try to make that enforcement program, that will doom it to failure. I do believe you've got to address the NMFS issue.

Senator KERRY. I tend to agree with you. As a matter of fact, I have my staff working on some comparative analyses of the last years. We are going to try to do that.

Mr. CYGANOWSKI. You asked how we can enforce the Hague.

Senator KERRY. Can you identify yourself?

Mr. CYGANOWSKI. I'm Frank Cyganowski, retired tuna fisher. I'm also a product of limited entry in the blue fin tuna fishery. That's another story.

How can we enforce the Hague Line? Simple. Under the new Law of the Sea, going into force November 16, 1994, and which was signed by the United States at the United Nations yesterday, gives coastal countries jurisdiction over creatures and minerals on and

under its continental shelf out to 200 meters in depth or 130 fathoms or 780 feet. That would put the U.S. boundary between Canada at the center of the Northeast Channel where it was before the World Court ruling in 1984.

Therefore, if Canada also signs the Law of the Sea, it must agree the Hague Line is obsolete.

Further, anyone that claims crabs and lobsters are bound to the continental shelf, but not scallops, has got to be a landlubber. That is perfectly ridiculous. Crabs and lobsters can swim like a fish, but the most a scallop can do is clack it's way a few feet above the bottom to escape predators and is at the mercy of the tidal flow while off the bottom.

We should make the same claim for our scallops on our Continental Shelf, which, incidentally, our Continental Shelf in its entirety is within 200 miles of the U.S. coast, whereas Canada's continental shelf extends at least 40 miles beyond the 200 mile limit.

You say you blame the Reagan administration for our problem. I guess you're alluding to the Hague Line. Well, President Reagan made a statement in 1984 that any ruling that the World Court made would not be recognized by the United States. It was the U.S. Senate who went ahead and ratified the Hague Line.

I was in communication with a New England Senator, and I mentioned in a letter to him about the Hague Line, and what I thought of it, and here's his response. "Except for an information controversy which was settled in 1991, the Hague Line is proven to be a reasonable and compatible agreement that has allowed the United States and Canada to retain amiable relations and a cooperative atmosphere in regards to fisheries issues. I believe it has proven to be highly satisfactory." That's what the U.S. Senate thinks about that.

Now, with regards to Canada, they simply jumped the gun on the Law of the Sea which comes into effect in November, and decided to place their scallops under their jurisdiction before that becomes actually law. If they can do it, why can't we? Our entire Continental Shelf is within 200 miles. It's only the opinion of a few people in the World Court who said they thought the Hague Line should be moved up onto our Continental Shelf.

In reality, 117 nations have already signed a Law of the Sea, and they no doubt serve on the World Court. They wouldn't expect anybody to take part of their continental shelf away from them under this new agreement, so why should we?

Do you want to solve the unlawfulness on the northern edge? Take the northern edge of Georges Bank back and include it in our 200-mile limit or whatever you call it, Magnuson Act.

[The memo on Atlantic Coast Fisheries Arbitration before the World Court, 1910, and miscellaneous material may be found in the committee files.]

Senator KERRY. Frank, let me just ask you, I accept that you were the scourge of the bluefin. I do not want you to be the scourge of the hearing here by taking too much time. I want to get to some of the other issues we are dealing with here.

Mr. CYGANOWSKI. I understand that perfectly. Isn't this the Government of, by and for the people? Let the people decide if they want to hear more of this or want me to be cut off.



Senator KERRY. Frank, this is a hearing of the Commerce Committee. We are trying to go through a whole number of issues. I am not trying to cut you off. I am just trying to say if we can get to the point quickly without reading the entire thing.

Mr. CYGANOWSKI. Here's my point. I was a tuna fisherman from its inception in 1962 in this area, and I was until 1982, when suddenly the National Marine Fishery Service declared a moratorium on blue fin tuna fish. They cut our quota down. We used to get as much as 3,000 tons that landed here in New Bedford. They cut it down to 200 tons.

I was a coowner of a boat with four partners. They cut my quota down to 37 tons. I said "this is the end of the line. I see the handwriting on the wall." I offered my partners my share of the boat and I sold it. I figured if they ever take the moratorium off I can go back tuna fishing.

Even though I was called the grandfather of the blue fin tuna fishery in the Maine Coast Fisheries, after they raised the quota somewhat and I went back to get a license they told me "sorry, you don't have grandfather rights, your boat does."

A hunk of wood and steel has got the rights, and me who pursued that fishery for 20 years had no rights. As a result, I have not been employed since then. Thanks to that. So, that's so much for.

Senator KERRY. Frank.

Mr. CYGANOWSKI. It's unfair to anybody to say you can fish and you can't. The blue fin tuna fishery seine quota today is owned by three companies, three companies. They're allowed to take 300 tons of blue fin tuna.

Mr. DAVIDSON. And the scallop industry fell away.

Senator KERRY. Folks, let me say to you.

Mr. CYGANOWSKI. We should go back to what it was before 1978, trip limits and quotas and the fishery was fine. It wasn't until they started mandating discarding small juvenile fish by the tons and tons that the fishery began to go downhill.

Thank you. That's it. You won't hear any more from me.

Senator KERRY. Frank, let me just say, you can take your seat, but I want to respond to you.

Look, what you have just described is the frustration that a lot of fishermen feel. But there is no way to avoid the frustration that you feel. You are going to feel it one way or the other.

Let me tell you why.

If you do not feel it by the Government trying to limit the catch, you are going to feel it because there aren't going to be any more fish to catch. It is that simple.

You are sitting here complaining to me. I did not start this. I got elected to the Senate in 1984, and I have been following what is happening over the last 10 years. I have watched the fish stocks go down, down, down, down.

Let me give you an example.

Right after we closed the area on Georges Bank and then reopened it, draggers were catching up to 3,000 pounds of haddock. But the trip limit was only 500 pounds. They were throwing away 2,500 pounds.

Now, you are sitting there and nodding your head. You know that was happening.

Mr. DAVIDSON. What a sin.

Senator KERRY. I agree. Who is going to do something about it? They would have brought back the 3,000 pounds. But if everybody went out and brought back the 3,000 pounds, there would be no fish left.

Now, we have a choice, and the choice is very simple. We either restrain ourselves and manage ourselves and deal with this diminishing resource, or we claim responsibility for having permitted the destruction of the oceanic ecosystem. That is the choice.

Now, if we just let everybody go out there, drag away, catch all the fish they want, and sell them on the market, that may be great for today, but it is not great for the future.

We have a responsibility that is not just to the industry of today, it is also to not mortgage the future. And so this is hard, this is very, very hard. What you just provided is a description of how tough it is. You are feeling the pain, and a lot of other people are feeling the pain as well.

I am simply here today with everybody else at this table trying to find the smartest, most sensitive method. I do not need you to describe to me the pain. I need you to help me find how we get out of this mess in a reasonable way.

Mr. DAVIDSON. Senator, I'm not describing my pain, I'm just telling you what happened.

Senator KERRY. You said it's not fair.

Mr. DAVIDSON. What you say about the fish, 3,000 pound of haddock killed where the limit is 500, it's not the fishermen's fault, it's the people who tell them they can go out and drag indiscriminately and only take 500 pounds of haddock when they can keep giving haddock and take codfish or some other thing.

The thing is the Government allows them to do this. Stop them from doing this.

Senator KERRY. There is a suggestion. Stop them from doing it. You tell me, how do we stop them from doing that? Should we order them to have a different kind of fishing method?

Mr. DAVIDSON. Quota.

Senator KERRY. They have a quota. The quota is 500 pounds. They are catching 3,000.

Mr. DAVIDSON. It's too late. Conservation has to start when there's a fishery to conserve. We started too late.

Senator KERRY. I do not think most people here would agree it is too late. We think we can bring it back.

Mr. DAVIDSON. This will take me 3 minutes. Can I please read that?

Senator KERRY. Do you want to take the mike and read it? That is fine.

Folks, I want to have not just two people dominate this. I want to have a lot of people.

Do you want to go ahead?

Mr. DAVIDSON. I wasn't aware of this meeting until yesterday at supertime, and I was called and said pick up the Boston Globe. On page 14. And it was an article about you. And you blamed the State, the Federal Government, the fishing councils, the fishermen

for the depletion of domestic fishing stocks. You were also quoted, and I quote, "fishermen themselves who for years under management councils were given the responsibility to make decisions to conserve have not been conserving. I believe it is widely known that actual working fishermen have not been represented on management councils. Politically appointed representatives, some with little or no experience in the fishing industry, seem to fill these positions. Many fishermen, not all, have requested conservation regulations only to be ignored."

Mr. Shelley, we asked to close the southern part for the scallops. We were ignored. We begged to close an area, and Secretary Brown, he was surprised at that, and Rolly Schmitten said, "boy, didn't know that and that sounds good."

Senator KERRY. Let me contradict you politely if I can, and let me ask you to sit down if I can, because I do not want to turn this into a two- to three-person exchange here.

But the truth is that each council has voting members that include the regional fisheries director of NOAA. It has State fishery managers, and it has from 4 to 12 individuals with fisheries expertise.

Now, I can go through very personally for you specific descriptions of how individuals on those councils who represent a particular segment of the industry have always stood up and said you cannot do this to us, we are not going to permit this to happen, if you do this we cannot pay our mortgage, if you do this you will put us out of business.

So, in effect, where the Federal Government mandated that a plan be put in place, no plan was forthcoming. A year would go by, 2 years would go by, 3 years would go by. A few years ago I responded in Washington by proposing changes to the Magnuson Act to permit the Secretary of Commerce to step in where the councils would not make a decision. Amendment 5 came to be in place ultimately, because the Conservation Law Foundation sued in order to get the council to make a decision.

So, I stand by my statement. It is a true statement.

Fishermen and others said we want the process to be democratic, we want to make the decision. So, Senator Magnuson when he wrote the act said "OK, we'll give you the decisionmaking power."

The problem is that people who were given the decisionmaking power fell prey to conflicts within the councils, and many decisions were not made. This not true of all councils and not true all the time, but often enough that we are today in crisis.

Now, all I can say to you is that I am not here to make the crisis worse. I am here to try to calmly and reasonably find a way to take an impossible situation and try to find a rational way to move toward the future. I want to protect and minimize the pain of fishermen.

I am the one who worked with Senator Byrd so we could get \$30 million here. I am the one who pushed for enactment of the Northwest Atlantic Fisheries Reinvestment Program to get people into other areas. We are fighting hard.

But, folks, if people are going to sit there and do what John Bullard said a few moments ago, which is pretend that you can

somehow get money from the Government to do less fishing and at the same time go out and fish just as much, it is not going to work.

So, let us keep talking about how we come at this enforcement issue.

Mr. SHELLEY. A couple things.

Senator KERRY. Let me just warn people so nobody feels we are cutting this off unfairly. We have only got about 15 minutes more in terms of my available schedule. I do not want anybody to get cut off. I want to keep moving if we can.

Mr. SHELLEY. This comment hopefully will go to the fishing vision process that the fishing community is engaged in. I think that's where it belongs.

One of the things that I've heard repeatedly now for 4 years is that regulation makes fishermen feel like they're criminals. I think it's critical in the reauthorization process to make the point so loud that they won't be not heard, that these are public resources; and that they are being harvested by a regulated community, and that people are more than willing to ask that regulated community to come forward with a set of rules that they're prepared to make work, and that those would be the best set of enforcement rules. Because the fishermen do know how to make systems work, and how to enforce them, and they have on their own in lobsters and a lot of other situations.

So, it's been demonstrated, but the fishermen, if they're going to do it have to do it, and if they're not going to do it they just have to accept the fact that the Federal Government is going to be inherently clumsy and unfair, and are probably wrongminded 80 percent of the time when it tries to develop the rules. And the Coast Guard with its limitation on budgets is going to compound that problem.

Senator KERRY. I agree with that comment completely.

And let me just say that that represents my attitude about this, and my approach in writing this act is give the fishermen and the local councils the maximum opportunity to design the plan. You folks know it. You come up with a way that is sensible and reasonable, and simply have the Secretary of Commerce approve the plan. This is the way it was intended to be and has been for the last few years, but the problem is people have not come up with a plan.

I think the Federal Government ought to be a choice of last resort. But we must have a finite time period within which the council must come to agreement, and if they are not going to do it, then it has got to be done. And hopefully the council will do it with an understanding that if the Federal Government is going to wind up having to mandate it, then they are going to be subject to whatever clumsiness or unfairness that comes with it. Hopefully that will be an incentive for people to design something reasonable and rational.

I agree with you. I hope we can do that.

Mr. BULLARD. Let me give very briefly the Commerce Department's position on a number of those issues that have been raised. One is that, as you know, Senator, it is the Commerce Department's position that we should add an additional standard to rebuild stocks, not just to eliminate overfishing. That is one of the things in amendment 5 that we must recognize, that the goal is to

eliminate overfishing in 5 to 7 years. Really we need to talk about rebuilding stock.

Second, that a number of folks have talked about the need for additional resources, and you and others have mentioned that under previous administrations more responsibilities have been added and fewer resources given to fulfill those responsibilities. And we're now living with the legacy of that. This administration, for the first time in an era of cutting budgets and the pain that that involves, is asking for additional resources, and the Congress is working to provide that.

Third, we believe that fishermen, and people with expertise, should have a role, as was intended in the Magnuson Act. But we recognize that the issue of conflict of interest is one that can erode credibility. We've tried to suggest a very simple way to deal with that by having the regional director, when requested, rule on whether a representative of the council is in conflict, and to do it in a way where that does not delay decisionmaking.

Finally, to reiterate a point that you have made, that, in our position, we're asking for the ability of the Secretary to declare to the council that a fishery is either overfished or about to be overfished, and to give the council 1 year to come up with a plan to rectify that. But if they fail to do that within 1 year to allow a Secretarial action so that we do not just let time pass and pass and pass while fishery resources dissipate.

Senator KERRY. The issue of the scientific basis for management has come up here, I would like to have someone address the question of how we can guarantee a better inclusion of fishermen in the process of gathering scientific data in a way that is sensible.

If anybody has any thoughts in addressing that.

Do you want to address that? Would you step up to the mike for a minute, please?

Captain, we'll get back to you.

Ms. ERICKSON. Harriett Erickson.

Senator KERRY. Captain, hang in there. Hang in. I want to have you up there. I am trying to get this subject covered first.

Ms. ERICKSON. The scientific data is the basis of the whole problem, and you're making decisions, as you say, at the council level, and they have to have something to make it by.

When you're starting with a premise that doesn't have really the truths and facts in it, we come to decisions that do not do the job.

Most of the rules we have right now in the U.S. fishery here in the East, we've taken rights from Canada, we took it from the socialist country, we put it here. It wasn't applicable, it didn't work.

Now we come to problems with enforcement. Enforcement is a problem. When the basic rules are not fair and equitable, they're erroneous. It's got to turn into a police state.

We have to have better scientific gathering of facts from the vessels that are fishing. The problem with that now is when they call up to put observers on the boats, a lot of people do not want to have it because they come and ask the fisherman "how much fish are you catching?" He said "I'm not doing too bad." They say "you're catching too much. It's got to stop." They come and interview you, "how much are you catching?" "We didn't do too good."

"You're not catching anything?" "There's nothing there." I think we have to realize here today.

Senator KERRY. How do we get more precise?

Ms. ERICKSON. We have to have more truthfulness. The Government is going to have to gain the confidence of the fishermen, and the only way they're going to do that is the double talk and the double standards are going to have to stop.

The council has basically used Canadian rules. They've tried to retrofit it to the American fishery. It hasn't worked. But they wanted to keep their jobs. Washington was pushing for a decision, it's down to their job versus the fishermen's job, and the person seems to pick themselves.

When you say we have fishermen on the council, we have many exfishermen on the council, they are not vested. I believe we do need people vested. We do need good decisions and good exchange of things at the council level so we can get together almost as a jury. But they have to have the facts. The council has not had good scientific data. We're moving too slowly. We're moving inappropriately.

Senator KERRY. How do we get the trust relationship given the level of mistrust that exists? How do we do that rapidly?

Ms. ERICKSON. I think the first way is by not scaring fishermen that you're going to stop it. We have Mr. Simonitsch here today.

I might have missed something, I understand he's a trap fisherman, therefore here we have a good example. Fishermen against fishermen is what the Government has done. If we get the draggers and trawlers, perhaps the trawl doesn't hurt the bottom.

Let's look at Connecticut, they stopped the trawl fishers. The bottom is sour, there's no lobsters. They've cleaned up the bottom, and the lobsters have come back.

You see a premise that hasn't really been researched and doesn't have the facts, does not reach a good conclusion.

We have to go back. We have to get the good facts. We have to start to be a superpower and not beg and plead with Canada and mirror Canada.

They've had all the rules. We just put in amendment 5. Their fishery is flat. Our scallop fishery, we've ruined the people, we've ruined the resource here.

We're coming off the council. That's the problem with the scalloping here today. We haven't even seen repercussions of amendment 5. So, we have to start with our own rules, not just follow Canada.

And when we do follow Canada, we pick what we think will stop the people from fishing. We've been pounding fishermen counting fish. We haven't had a fishery science. We haven't addressed habitat. We've taken the easy route. Everybody's going to make an easy paycheck. We have people who call themselves sport fishermen on head boats, we have a couple of them on the council. They're getting their money from commercial fishing.

We need a whole revamp of the system of the way we're running the fishery. It isn't a simple problem. It isn't just overfishing. The overfishing definition came from the scientific data that we've used.

I've been going to meetings for 10 years. The problem couldn't be settled here today. We need a week.

Senator KERRY. Let me ask you a quick question.

There is not a fisherman I have talked to who is not coming in with less and less and less catch, declining stocks over years. The science on Georges Bank is pretty solid science.

Ms. ERICKSON. I don't think so. I disagree with you there, Senator, that the science is correct.

Senator KERRY. Why do you think more and more people fishing with more and more effort are coming in with less and less fish?

Ms. ERICKSON. I will agree with you that the fish are not there. The reason they're not there I do not think we know. The Canadians have used it. Now their concept is that the fish is in international waters. That's the fight on the table right here today.

Senator KERRY. You do not think the fact that more and more fish are winding up in people's stomachs than in producing more fish does not have something to do with the reason there is none there?

Ms. ERICKSON. We're catching less and less fish on Georges. That's what you're saying. More and more fish. It's a world economy. It's being imported from all over the world.

Senator KERRY. I realize it is a finite resource, correct. There are only so many fish out there.

Ms. ERICKSON. It's a replenishable.

Senator KERRY. It is only replenishable if there is a parent out there with eggs.

Ms. ERICKSON. Exactly.

Senator KERRY. If the parent with eggs is in a fishing plant being processed, there is not going to be any child; correct?

Ms. ERICKSON. Correct.

Senator KERRY. So, you know, when you look at the fact that scientists have determined that there are about 100 million metric tons of fish product coming out of the ocean today and that is all the oceans can support, in fact, there has been an 18 million metric ton decrease in the last 3 years in worldwide fisheries, now, are you saying no, we can fish all we want?

Ms. ERICKSON. I'm not saying we can fish all we want, but I don't think it's just as simple as less fishermen more fish.

Senator KERRY. You said it is not being overfished.

Ms. ERICKSON. I'm saying that the definition of "overfishing" that the council came up with was based on the science, the best scientific evidence that their scientists would give them, which I do not think was neither complete nor correct. There's habitat, there's other—there's mackerel and other school fish that eat a tremendous amount of the other species. There are lots of problems that have not been factored in because it costs money and it takes research, and everybody is looking for a quick answer and an easy job.

To be fair to the fishing people, we have to look into all these things and do it on a comprehensive study, and we have to put fishing people first. Dealers are very important, but they fish the world. Fishermen can only go here, the Northeast fishermen. That has to be looked at.

I don't think the priority has been in position.

Senator KERRY. So, are you against any reduction in the fishing effort?

Ms. ERICKSON. I'm certainly not against a reduction in the fishing effort. But when we have a reduction in the fishing effort, but we've got to bring the price up at the dock. Even if we were allowed to fish more, if we had plenty of fish out there, low prices at the dock because of the problem with imports, mixing of imports, improper labelling, that is not caught in the marketplace and before that. This is influencing the price allocation, and price gives fisherman his living. Allocation and price, they have to be equal.

Senator KERRY. Let me say to you you have hit on, that last comment hits on one of the key problems here which I addressed earlier, which is the international effort.

If you have open markets, and the international effort is excessive as it is, then you have much more supply than there is demand, and that drives the price down obviously. Because so many other countries are engaged now in overfishing, we do have lower price, which only goes to underscore the solution to this is not just the United States. There must be restraint in these other countries, and that's why we need to push much harder to get these other countries pulled back and then you will see the price go up as there is less available.

Ms. ERICKSON. Not necessarily. There are countries in Norway, they haven't had their herring there for 35 years. It's back in volume. They're doing very well.

Fish are cyclical. We know it's not there, but we haven't found out why. It's not that simple as lower price, more price. There's more going on up there.

I would back up Mrs. Johnson not only for her attitude, but there are fishing people in New England and then there are people in fishing. Fishing people in my opinion would mirror Mrs. Johnson's opinion, because that is the way they're going to fish for the future.

Senator KERRY. I do not disagree with that. The problem is there are all kinds of pressures in the system beyond what you call fishing people, and that is a problem today. I agree with you. I think most small fishermen have a good ethic about it and would like to see the resource conserved.

As we all know, it is a marketplace, and the marketplace drives the fishery, because you have a lot of commercial interests that are pushing the market. Anyway, let me get the captain.

Ms. ERICKSON. Not people in Washington. Fishermen and people first.

Senator KERRY. Bobby, come up here and share your thought with us. I know you are concerned, obviously. We had a chance to talk a bit earlier.

Captain BRUNO. Thank you for being here, Senator Kerry, the committee also.

Senator KERRY. Just say your name for the record.

Captain BRUNO. My name is Bobby Bruno. I'm owner of the fishing vessel *Alpha-Omega II*.

Your question was pertaining to law enforcement. I was not going to comment pertaining to the vessel.

Senator KERRY. That is all right. We will go back to it.

Captain BRUNO. We have since the onset of 1986, 1987, in those years with fisheries management council, "we" meaning the fishing industry has put forth to the council various suggestions on con-



servation efforts as to trip limits, days lay-in time, sizes of dredges, and these types of things right from the get-go. We keep coming even to this date to the fisheries management council, and pertaining there again on other issues.

But when you were saying pertaining to law enforcement, and there again it fell on deaf ears from the management council.

Senator KERRY. Why do you think that happened? Do you have any sense of that?

Captain BRUNO. Why it happened is because from the way we have a feeling of it here in the industry is the fishermen didn't know what we were talking about. We are the harvesters of the ocean. We knew the species, we're very good at what we do, our job, and unfortunately they never took to our opinions.

Senator KERRY. You are saying the council never did?

Captain BRUNO. The council. I'm saying from the get-go we instigated these plans, which now they have taken pieces of it now at this late date to act on.

Senator KERRY. Why do you think the council did not? Was it the conflict of interests within the council? What prevented the council from—

Captain BRUNO. For the reasons it's beyond me and it's beyond a lot of the fishermen here. We're not exactly, you know, as far as office workers or punching clocks, we're not of that nature. And, you know, for a lot of the fellows to get up to the council is really hard, because they're taking care of the boats and so on.

But besides all that on the enforcement end of it, we have to—the fisheries management council, time and time again, I'm a scalloper, to let us take the product as it is. This business of sifting through piles and piles of scallops and discarding the small and bringing it back up and doing the same, we are killing off the industry.

We had so much resource out there in the southeast part that was—we would have had fishing for years if it was managed at that time properly. We tried to put the input to the council. We asked them to let us take it, and to state the way it came and trip limits on it and so forth and so on. It just fell on deaf ears. It continues to fall on deaf ears.

Senator KERRY. What do you think we should do now?

Captain BRUNO. We've got to have people listen to us. They're not listening to us, Senator.

Just last March we was up to Boston. We had a whole region down to the mid-Atlantic there. If they had listened to us to close that area off, we would have had fishing for a while. Let us go in and take it in in trip limits, let us go in, you know, conserve.

Senator KERRY. When you say they are not listening to us; who is "they"?

Captain BRUNO. Well, at Boston, I was up at Boston when you was there, when the \$30 million package was appropriated.

Right after that we had a meeting with the Secretary Brown and Rollie Schmitten, and we told them exactly—in fact I personally told Rollie, the area was 100 miles long from 20 to 40 fathoms. I give him the area. I suggested all you have to do when you get home is just take a plane straight out east where you are, down there in Washington.

Senator KERRY. John Bullard has maybe some answer for you.

Mr. BULLARD. As I understand, Bobby, Rollie did take that information and asked people to look. Is there a part of the grounds that has a lot of young scallops that you can define, separate from other parts of the grounds where there aren't young scallops? And as they looked through it they could not find a definable area. They found, as I understand it, that condition in a lot of places where the amount of ground that you would have to cover would have been all of the grounds. They didn't find pockets. In other words, as I understand it, they found that condition everywhere. That's why they decided not to close it. That's what I understand the decision was not to close it.

Captain BRUNO. Excuse me. That was not a pocket. We had boats down there, John, that that was over a 100-mile area, from 20 to 40 fathom that was covered with scallops.

Now, they did the same thing as we did in the southeast part, same exact thing. It's all gone. It's all killed off down there. The bottom is like a garbage pit.

They didn't listen to us again. We told them specifically, "this is the problem." They're not listening to us.

Senator KERRY. Bobby, I appreciate that comment, and I know it will go straight back to Rollie through John Bullard. And I intend to try to meet with these guys maybe next week if possible, and follow up on this and see how we can, you know, get a meeting of the minds on it.

Captain BRUNO. I appreciate that.

One other thing before I let loose here.

You asked about the law enforcement. We're spending millions and millions of dollars out there with the Coast Guard and the Federal agents. They're patrolling the lines for the Canadians and the Canadian interests. The Federal agency here previously before the count went off, because this is how the council felt that the count was going to do the job, so in a sense we have come and said all that's needed is from industry, all that's needed is put a limit to each boat. You give each boat 150 tags, 6,000 pounds, you put each tag to a bag, and that's your limit. When you come in, you don't have that amount of tags to that bag ratio, then you have a problem then.

But you have to, you have to put limits and you have to put days layover.

Senator KERRY. I appreciate that very very much.

Captain BRUNO. One more thing and I'll be out of your hair.

I understand the House of Representatives has just passed amendments to the Fishermen's Protective Act which provides compensation to boat owners, crews whose vessels are illegally seized by foreign government. And it is my understanding that the State Department has not yet taken action on this bill yet.

I'm just wondering if it is possible for the Senate, for your committee, to take up this measure. I am hopeful that perhaps something could be added or attached to this bill to help us out in our current problems with the Canadian Government.

Senator KERRY. Bobby, I was just checking with staff on the status of it. We passed that in the Senate. But we have a slightly different version from the House, so they're now going into conference

committee. We're trying to work out the differences. We will, I'm confident, have a bill coming out of Congress that will do that.

Captain BRUNO. Thank you very much.

Senator KERRY. Let me just say to you, because I know you are concerned about it, I want you to understand, you and I talked before the meeting and I want you to know, I will be on the phone today when I leave this meeting to Ambassador Blanchard in Canada. I have talked, as I told you, last night to the Under Secretary of State, and we are going to press this issue as hard as we can. And I want you to understand that I think this is an absolutely intolerable, unacceptable situation. It is a violation not just of the spirit of our relationship, but it is a violation of the law, as far as I am concerned, and those boats ought to be released.

I talked to the State Department last night. You will not have to pay for that. We will put up the money for any bonding. We will put up the money for any bonding on the people.

But the more important issue is, I think, getting those boats released, getting the catch paid for, and making sure that those fishermen and you are not out of pocket as a consequence of this.

I think this atrocious behavior by our friends in Canada. Hopefully we can get this back on an even keel. OK?

Captain BRUNO. Thank you very much, sir.

Senator KERRY. Folks—

Captain BRUNO. I want to publicly state to you and your staff I appreciate all your efforts and your hard work, and thank you again.

Senator KERRY. Thank you very much.

Folks, before we wrap this up, I just want to make sure that nobody has any, you know, sort of a burning comment that you feel you have really got to make, or somehow you have not been listened to. I do not want anybody to leave here feeling you were cut off or cut out.

Yes, sir.

Mr. BEIDEMAN. Nelson Beideman. I'm from Blue Water Fishermen's Association.

I just wanted to reiterate a little bit on what Capt. Mark Simonitsch had to say on reproduction and on the research end of things.

A lot of research has gone into allocation-type issues. A lot of research goes into screwing down commercial fishermen, but there's nothing on the other end of it. We have the capabilities of getting a sperm and an egg together. We could probably obtain a better recruitment out of observers or scientists aboard a boat fishing in the spawning area, under controlled conditions, putting a sperm and egg together, or storing it, bringing it in for controlled rearing and ranching release, and we're not putting anything into that type of research.

Senator KERRY. You are absolutely correct, and I think that is a very good comment. It was made earlier, I think either by Captains Simonitsch or Mirarchi that there is a huge amount you could do. I have been advocating it for several years. We have trouble trying to get the money. I am absolutely certain we could do an enormous amount to hasten the restoration of these fisheries with, frankly, a very small amount of effort.

Let me just ask before anybody leaves, any of you who went up to the microphone to address the committee, I would simply ask that you fill out a piece of paper or card up here with your name and address on it for the official record so we can include that in the official record of the proceedings.

John Bullard.

Mr. BULLARD. I just want to say, picking up on Nelson's suggestion, also some suggestions made by Captain Simonitsch, that's the kind of ideas we hope to fund through the fishing industry grants. I want to repeat I have applications here. There's a deadline of August 22. Ideas that can have a general and longlasting benefit to the industry as a whole, ones that involve research and development that are beyond the ability of any single fisherman to carry out is the kinds of things that we want to fund with this.

Mr. BEIDEMAN. We need to start cutting loose on getting some of the fishermen more involved in enforcement and observer jobs, fishermen are just as trustful as any other sector of society. We also need to get the fishermen involved closer in research with the scientists, a lot of good ideas will come directly out of the people that spend their lives on the ocean.

Senator KERRY. Mrs. Johnson, very quickly, wrap up here.

Mr. CYGANOWSKI. Can I please make a quick analogy?

Senator KERRY. Just one second.

Mrs. JOHNSON. Relative to your specific questions on enforcement, as I think it was Mr. Griffith said, fishing vessels, one of the things you can use boat buy-back for is to use them for enforcement at sea, change them occasionally. Coast Guard cutters are very noticeable.

On the auctions, selling floors, sometimes boats come in, and if you identify the fish and you see a bunch of really small fish and it's all in one boat, perhaps it might be a really good idea to check that boat out at sea. The vessel transmitters, as much as I don't like them, they're going to be a very useful tool for enforcing the Hague Line.

And one of the things at that fishermen did come up with, despite due process problems when the Coast Guard or officers are doing at sea enforcement, and I hope when you do get out there and you find a flagrant violation, that is a net liner mesh that is a one-half inch or whatever number below the legal, or one-half mile inside a closed area, take the operator's license, take the vessel's permit, the back side of that to try to get due process. They need a hearing within 10 days, but that will send a very clear message.

One last thing, for the record, I respectfully add to your opinion about how amendment 5 came to be, that it was also the 602 guidelines which held up the formulation of amendment 5. Thank you.

Mr. CYGANOWSKI. Senator.

Senator KERRY. Yes, sir. Frank, can you make it fairly quick?

Mr. CYGANOWSKI. I'll make it very quick.

People don't understand what it means, you know, discarding the dead ones. The best analogy I can make for that is a chicken farmer, he's got a coop full of chickens, there's baby chicks, laying hens, and there's old, what do you call them, fowl. He gets an order for six chickens. He gets his double-barrel shotgun, and he fires blind-

ly into the chicken coop. He goes, picks the six chickens up he needs to go to the market, and the egg laying chickens and the baby chicks that happen to get in the way, he just shoves them in the garbage can and takes them out to the dump. How long will he stay in business? That's what's happening out on the fishing grounds.

Thank you.

Senator KERRY. Thank you.

Last comment.

Mr. DAVIDSON. The black boxes. It's my understanding that National Marine Fisheries Service said black boxes were not going to be used to. They were going to be used for allocations of days at sea, not for—not to check on who's where on the Hague Line. That was my understanding. They denied it was for enforcement. It was—but we know what's going to come.

Mr. BULLARD. I think the intention, Hans, is that the black box is going to account for your time at sea.

Mr. DAVIDSON. Yes. Excuse me. Mrs. Johnson just said it would be very helpful in enforcement, which was denied when it was first brought up. It was not going to be used for enforcement. It's not an electronic device because—

Senator KERRY. Can I ask you a question? If you are obeying the law, why does it matter to you?

Mr. DAVIDSON. It doesn't.

Senator KERRY. Then do not be worried about it.

Mr. DAVIDSON. If you're obeying the law, you're obeying the law. Would it bother you if they put an electronic device around your ankle to know where you are, just to know where you are?

Senator KERRY. I can tell you they put a beeper on me all day in Washington. It is pretty miserable. They will not let me out of sight.

Mr. DAVIDSON. We do have good fishing grounds that are legal, and that will be—people will know where they are.

Senator KERRY. Let me say something to you. If you are a law-abiding citizen and you know that there are people out there breaking the law, and it is in your interest to have a system.

Mr. DAVIDSON. We have to enforce.

Senator KERRY. Then people ought to be happy saying "Hey, this is going to protect all of us, and I want to be a participant in doing that." It should not be something you worry about. You should be looking on it as a way of helping the country to get control over this issue.

Mr. DAVIDSON. I agree with that, but I can't afford a black box.

Senator KERRY. I understand that. Nor can many, many fishermen. I think that there is a clear Federal responsibility to assist in whatever mechanism they are putting in place.

Let me close this off by saying to all of you, and I want to say this, look, if I could wave a magic wand and make this easy, I would do it in a flash, so would everybody else.

This is a very tough issue. There are questions of science, questions of culture, history, questions of environmental technology in science, questions of economics, there are just all kinds of questions.

We have applied what is called the precautionary principle with respect to climate change, ozone depletion, other kinds of questions, and to a certain degree we may not have perfect science. We may have trend lines and evidence that we draw as rational human beings from which we are going to have to draw some conclusions. And life is sometimes like that. It does not always present you with clear-cut choices.

But I think the precautionary principle as well as the basic evidence indicates that we have some responsibility to future generations and to ourselves to protect this extraordinarily fragile resource called the oceans.

By no means is fishing the only problem, folks. We have 60,000 acres of clam beds closed off here because of habitat destruction, flow of oil and fuel and residue and pesticides right off into our estuaries and bays, all kinds of problems, development, waste, dumping at sea, you name it. But we have to really be careful about what we are doing, and that is what this is all about.

And I hope we can do it in a cooperative, sensible, calm, rational, nonvitriolic way. It is a tough process. But we have to remain cooperative and open to each other and work together to try to find the best solutions.

I want to thank you for laying a lot on the table. We have not discussed everything, I understand that, but believe me, there is a lot of work that I have here. I have 10 pages of notes of what I want to sit down with the Commerce Department and my staff and think out as we go through this. This hearing has been very helpful, I think, in getting us to think some more about some of the ways to approach the Magnuson reauthorization.

On that note, I thank you, and we stand adjourned.

[Whereupon, the committee adjourned at 11:45 a.m.]

## APPENDIX

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### PREPARED STATEMENT OF ROLLAND A. SCHMITTEN, ASSISTANT ADMINISTRATOR FOR FISHERIES, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Mr. Chairman and Members of the Committee: I am Rolland Schmittten, Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration, U.S. Department of Commerce. I appreciate the opportunity to discuss S. 2138, the Administration's proposal to amend the Magnuson Fishery Conservation and Management Act (Magnuson Act).

First, I would like to thank you, Senator Kerry, for introducing this legislation. The Administration looks forward to working closely with you and the Committee as Congress considers this legislation. Hearings such as this one are critical steps in developing changes to the Magnuson Act that will ensure the future of the Nation's marine fisheries.

The amendments in S. 2138 were developed over the last year and a half by the Administration, and have built on Congressional hearings, consultation with the regional fishery management councils, and discussions with members of the industry and numerous other interested parties. Overall, I believe that this package of proposals addresses needed changes to the Magnuson Act and will improve the management of the Nation's living marine resources. While a comprehensive package of about 20 specific amendments is proposed, my testimony will focus on several major amendments. The additional proposals are described briefly in an attachment to my testimony.

Although problems are found in the fisheries across the Nation, nowhere are they more concentrated and debilitating than in New England. I need not go through the litany of problems we are dealing with at this time. The fact that haddock, which used to be the mainstay of the New England fishery, are now commercially extinct in the Gulf of Maine speaks volumes regarding the situation we are now experiencing. During the past year, we have been very active with the industry and the Council in attempting to resolve the problems specific to New England fisheries. A major step was taken this year in the approval and implementation of Amendment 5 to the Multispecies Fishery Management Plan. In addition, we have worked closely with industry to mitigate the effects of our management programs by designating \$30 million for assistance.

While we are working on the immediate problems at hand, we must look forward to make adjustments in our legislative mandates and policy initiatives to ensure that these problems are rectified and not repeated in the future. We have attempted to do this in our proposal to add the phrase "rebuild depleted stocks" to the current requirement to prevent overfishing in National Standard 1 of the Magnuson Act. Such a change is needed to ensure that stocks, such as New England groundfish, are rebuilt once overfishing is stopped. To complement this proposal, the definition of optimum yield would be amended to define the level to which depleted stocks must be rebuilt. This change provides that stocks should be rebuilt to a level consistent with that necessary to produce the maximum sustainable yield (MSY), i.e., the long term average for the stock and a level that can be measured for management purposes. This requirement would not negate the current provision, which allows MSY to be modified by any relevant economic, social, or ecological factor to arrive at a calculation for optimum yield, as long as it does not cause the stock to fall below a level consistent with the MSY.

A related amendment would require a council to prepare an FMP or regulatory amendment to prevent a stock that is approaching an overfished condition from becoming overfished, or to rectify an overfished condition. Council action would be required within one year of receiving a report from the Secretary that the stock is approaching an overfished condition, or is overfished, based on a definition contained in the FMP. It would also require the Secretary to take action if the council has not submitted the necessary amendment within the required time. This provision would ensure that action is taken within a reasonable time period to protect

a stock from being overfished. It utilizes the definition of overfishing currently required in each FMP as the triggering mechanism. The required amendment must address the prevention of current or future overfishing and must incorporate provisions to restore the stock to a condition that is not overfished.

Strengthening the overfishing standard for directed fishing effort, however, is not sufficient of itself to rebuild and maintain fishery stocks at their maximum level. We must also address the tremendous mortality and waste of fish taken as bycatch. We have undertaken numerous programmatic activities to address bycatch, including scientific evaluation of bycatch in various fisheries and the development of fishing gear to eliminate unnecessary bycatch. Recently, we implemented a regulation to require the use of finfish excluder devices, such as the Nordmore grate, in the northern shrimp fishery. Testing has indicated that this gear has great potential and reports indicate that the gear has been effective in reducing the bycatch of groundfish in the shrimp fishery off New England.

Although we are pleased with our current and potential programmatic efforts in this area, we also believe that every fishery management plan must consider the adverse effects of bycatch. The Administration, therefore, has proposed adding a new national standard requiring conservation and management measures to minimize incidental catches that result in the waste of living marine resources. The councils or NMFS would develop measures, where possible, that would eliminate the wasteful take of non-target species, particularly where these stocks are depleted. This new standard recognizes that not all incidental catch is undesirable (e.g., legal incidental take of skate in the multispecies fishery). Rather, it focuses on the incidental catch that wastes living marine resources, in whatever form, through discarding and highgrading. We would interpret "living marine resources" to include marine mammals or threatened/endangered species.

While controlling fishing effort to rebuild and maintain fishery stocks at their maximum levels, we must also protect fishery habitat if our management programs are to be fully effective. We believe, in fact, that habitat degradation may be the greatest long-term threat to the continued production of many marine fisheries. The amendments, therefore, emphasize the importance of habitat protection and define a new term, "essential fish habitat." The definition would guide the identification of areas of habitat that are considered essential to the production of optimum yield from one or more fisheries under management by a council. We anticipate that these habitats would include areas used for spawning, nursery, feeding, and migration, as well as other areas that are vital for life cycle functions of specific fisheries. The word "essential" is used to avoid confusion with "critical habitat" as used in the Endangered Species Act. The amendments would require the councils to prepare an annual listing of all essential fish habitats for all FMPs. This listing would provide a ready reference for all projects being developed that may affect fishery habitat, and for all project-reviewing officials.

All the initiatives I just reviewed are extremely important if we are to meet our goals, but require the increased efforts of our scientific, management, and enforcement staff if we are to be successful. How we fund this effort is a major concern. So far, most of the cost of fisheries management has been borne by the general public, unlike other industries that pay for the opportunity to use a public resource.

Currently, the Magnuson Act allows only for the collection of the administrative costs of issuing permits. These funds are deposited in the General Fund of the Treasury and are not available to the National Marine Fisheries Service (NMFS) for conservation and management activities. Right now, NMFS collects permit fees for only nine fisheries. Expansion of current fees is necessary to ensure a return to the Nation for the use of these public resources and to provide for the adequate management of marine fisheries in the future.

The marine fisheries resource fee proposal in S. 2138 is based on the recommendations of the National Performance Review, and discussions with Congressional staff and constituents. The Administration's goal in developing this proposal was to ensure that it is equitable to all participants and that the fees are reasonable and do not represent an onerous burden. It is important to note that the use of these fees would be dedicated to the management and conservation of marine fisheries by NMFS.

The fee proposal is made up of four elements: 1) establishment of user fees above administrative costs for any permit issued under the Magnuson Act, consistent with the Independent Offices Appropriations Act (31 U.S.C. 9701); 2) a one percent levy on the value of fish and shellfish at the point of first sale; 3) establishment of a three percent annual fee on the value of fish allocated under individual harvest shares to recover costs associated with this form of management; and 4) establishment of a fee on vessels to cover the costs of special management measures, such as observers, that directly benefit specific fisheries and fishermen.



Again, let me emphasize, funds collected under the user fee proposal would be dedicated to the conservation and management of marine fisheries by NMFS. Specifically, funds collected under the proposal would be used for: collecting, processing, and analyzing scientific, social, and economic information; placing observers onboard domestic vessels; conducting scientific research and publishing results; developing, monitoring, and implementing fishery management plans (FMPs); improving enforcement of marine conservation programs; and educating resource users and the public on marine conservation programs.

We recognize that many in the industry are experiencing financial difficulties at the present time, particularly in New England. We are trying to balance the funding needs of our critical management programs with those requirements to sustain the economies of our coastal communities. In this regard, one very significant use of the funds authorized by the amendments is to allow fees collected from some overfished fisheries to be used to reduce harvesting capacity in that fishery. Overfished fisheries managed under an FMP that calls for limited access would be eligible. With 40 percent of the Nation's marine fish stocks identified as overfished, this amendment would be a major step in improving this condition.

Two final important issues I would like to touch on are conflict of interest, and the collection of data critical to our management programs. The Administration believes that the perception of or potential for conflicts of interest on the councils must be addressed. The amendment in S. 2138 would forbid a council member with a financial interest that would be significantly affected by a council decision from participating in a decision, unless granted a written authorization by the NMFS Regional Director. The Regional Director can grant an authorization upon determining that the need for the member's participation outweighs the potential for a conflict of interest. The Secretary is authorized to issue guidelines for determinations.

Finally, the amendments would provide the Secretary with the authority to implement national, uniform mandatory recordkeeping and reporting requirements for all fisheries subject to the Magnuson Act. Current authority is limited to individual FMP recordkeeping and reporting, and individual fishery data collection programs in advance of an FMP. The lack of a national data collection program has resulted in independent requirements for each FMP that are not integrated with each other, or with non-FMP data collection programs sponsored by NMFS or the states. This amendment would provide the Secretary with the ability to integrate the current data collection programs into a comprehensive national data collection and management system. The amendment would eliminate duplicative reporting and reduce the reporting burden on the industry.

Thank you, Mr. Chairman. This concludes my statement concerning the Administration's proposals to amend the Magnuson Act.

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#### SUMMARY OF ADDITIONAL AMENDMENTS

##### *Collection of economic data from processors*

The amendments would provide for the collection of economic data from processors, as is now required from harvesting and other entities in the industry. Economic data from processors, as well as fishermen, would be extremely useful in meeting the requirements of the Magnuson Act, including national-standard I (calculation of optimum yield), national standard 7 (minimizing costs including those on processors), section 303(a)(9) (fishery impact statement), and other applicable law, including National Environmental Policy Act and Executive Order 12866 (economic/social analyses).

##### *Data collection*

The amendments would require foreign processors operating in the internal waters of a State to report certain vessel and catch information to the Secretary which is generally not available now. Federal and State agencies, as well as other regulatory organizations such as the Interstate Marine Fisheries Commissions, involved with managing the species need to know the amount of fish harvested, where U.S. fishermen are harvesting the fish, and whether the species are managed under an FMP or found W in waters of two or more States.

The amendments would establish a three-year limit on maintaining the confidentiality of data. Currently, the Secretary must preserve the confidentiality of data submitted by fishermen or processors in perpetuity. The provision would prevent the disclosure of the identity or business of any person submitting statistics and reduce administrative burdens.

### *International management*

The amendments would delete the requirement that U.S. fishing vessels must be provided with a reasonable opportunity to harvest an allocation or quota under a relevant international fishery agreement. The primary management program for highly migratory species should continue to be accomplished through international organizations. However, the current requirement that U.S. fishermen be allowed a fair opportunity to take an internationally established quota may pose a problem if the United States wishes to establish a quota on a local stock or substock of a highly migratory species for conservation purposes that is less than that allowed by the international organization. The inability to set a lower quota could result in local overfishing and the loss of long-term benefits.

### *Emergency actions*

The amendments would expand the timeframe for a second "emergency action period" from the current 90 days to 270 days. Approval of the additional 270-day period would be dependent on provision for public comment during the initial 90-day emergency and progress by the council, or Secretary as appropriate, on the development of an FMP amendment with a permanent solution. The current 180 days (two 90-day periods) is frequently insufficient time for a council or the Secretary to implement a permanent solution through an FMP or amendment. In addition, the amendments would provide that emergency regulations to protect public health would remain in effect until the emergency no longer exists.

### *Tribal representation*

Recognizing the increasingly important role Tribal representatives play on the Pacific Council, the amendments would provide an additional obligatory seat on the Pacific Council for a representative of Indian tribes of California, Oregon, Washington, or Idaho that have Federally-recognized fishing rights. Although Indian representatives have been appointed to at-large positions on the Pacific Council from among the nominees provided by Pacific Northwest Governors, there is no assurance that the Governors will continue to include such nominees. The representative would be appointed by the Secretary, as designated by the Secretary of the Interior from a list of not fewer than three individuals nominated by the appropriate tribal governments. Representation would be rotated among the tribes and each appointed representative would serve for a term of three years and not be reappointed for a consecutive term.

### *Foreign fishing*

The amendments would delete the requirement that the Secretaries of Commerce and State prepare a foreign allocation report for Congress and the President each year. The report is no longer necessary since there are no foreign fishermen and joint venture operations in the U.S. Exclusive Economic Zone (EEZ).

The amendments would also allow the Secretary to issue a permit to foreign vessels for transshipment of fish products in the absence of a governing international fishery agreement (GIFA). The Magnuson Act requires foreign transshipment to satisfy the same GIFA, application, and permit requirements as are required of foreign nations whose vessels and owners engage in the catching, taking and processing of fish in the EEZ. Foreign fishing, such as joint ventures, will continue to be authorized only under a GIFA; however, the approval of foreign transshipments at sea in the EEZ or within the boundary of any state that is found to be in the interest of the United States will be encouraged by not subjecting them to the same stringent approval requirements as for harvesting vessels.

### *Large-scale driftnet fishing report*

The amendments would eliminate the requirement that a Driftnet Report be prepared annually. The purposes of this requirement have been met, with Japan, Korea, and Taiwan committing to the implementation of the United Nations Resolution calling for a moratorium on the use of driftnets after December 31, 1992. While we do not believe that there should be a statutory requirement for an annual report, we will produce the report on an "as needed" basis.

The amendments also address two problems that have arisen in enforcing the prohibition against large-scale driftnet fishing. The amendments would clarify what vessels are subject to U.S. jurisdiction, to include foreign vessels whose nation authorizes the United States to exercise jurisdiction, and stateless vessels. It would also create a rebuttable presumption that a vessel with gear capable of use for large-scale driftnet fishing is engaged in such fishing.

### *Extension of criminal penalties*

The amendments would extend the applicability of criminal penalties to assaults on persons employed by or under contract to NMFS and involved in collecting fishery information in their official duties. Unlike observers, who were afforded protection under the Amendments of 1990, no prohibitions or criminal sanctions explicitly address assaults on statistical agents. Statistical agents, however, are often the primary Federal contact with members of the fishing industry who may take exception to regulatory actions taken under the Magnuson Act, the Endangered Species Act, the Marine Mammal Protection Act, the Lacey Act, or other applicable law.

### *Judicial review of permit sanctions*

The amendments would provide for judicial review of permit sanctions. Although the Magnuson Act provides that any person who is assessed a civil penalty may obtain a review of the penalty in U.S. district court, it does not provide explicitly for such review of permit sanctions. The two standards should be treated the same, especially since they may be imposed together in the same administrative hearing. The amendments would also delete language regarding service to ensure consistency of service procedures with other district court actions in accordance with the Federal Rules of Civil Procedure.

### *Enforcement*

The amendments would allow the sums received as fines, penalties, and forfeitures of property for violations of any fishery resource law enforced by the Secretary of Commerce to be used for the enforcement of all statutes dealing with living marine resources, instead of just for fisheries. The Magnuson Act does not currently provide for such monies to be used for enforcement related activities associated with various living marine resource statutes such as the Marine Mammal Protection Act.

Additionally, the amendments would provide that any person found in any enforcement proceeding to be in violation of the Act or any other marine resource law shall be liable for the costs of the sale, storage, care, or maintenance of fish or property seized as a result of the violation.

### *Observer wages as maritime liens*

The amendments would provide observers with the same lien priority for past-due wages as is currently provided for seamen's liens under admiralty and general maritime law. This addresses the problem of vessels, or contracting parties, not paying for observer services.

### *Authorization of appropriations*

The amendments would authorize appropriations for the Department of \$103,218,000 for FY 1994, \$142,502,000 for FY 1995, and "such sums as may be necessary" for FY 1996.

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### PREPARED STATEMENT OF JOHN K. BULLARD, DIRECTOR, OFFICE OF SUSTAINABLE DEVELOPMENT AND INTERGOVERNMENTAL AFFAIRS, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Mr. Chairman, it is a pleasure for me to appear before your Committee today in my hometown and address the issue of sustainable development.

Today I would like to briefly share with the Committee the efforts of my office and the Department of Commerce, under Secretary Brown's leadership, to respond to the crisis facing seaports up and down the northeastern coast.

The collapse of certain fish stocks in the northeast cannot be viewed as simply a natural resource problem. Indeed, it is an economic crisis which affects the lives and livelihoods of real people and real communities.

Achieving a balance between the needs of the resource for future generations and the needs of individuals affected by the crisis is a prime example for the justification of the Office of Sustainable Development which I oversee within the Department.

The challenge which faces all of us as a society is the absolute imperative of maintaining a balance between economic development and sound environmental policies. I would like to commend you on your support of this goal.

Due to your efforts and the efforts of Senator Kennedy, and Representatives Studds and Frank, and members of the entire New England delegation, this Administration has stepped forward and offered a \$30 million emergency assistance package to help fishermen, their families, the communities, and other fishing-related businesses deal with the current crisis.

Earlier this year, members of the New England delegation met with Secretary Brown and requested \$60 million in emergency aid. On March 21, Secretary Brown

announced in Boston a \$30 million aid package. In reality, however, when this package is coupled with efforts from other Federal agencies, including the Department of Labor, the Department of Housing and Urban Development, the Small Business Administration (SBA), and various state agencies, including the Massachusetts Industrial Services program, the total aid package is slightly over \$60 million.

My office has worked closely with agencies both within and outside the Department and developed a cooperative working relationship which surely is the embodiment of "reinventing government"—a theme and concept embraced by the President.

Let me just list some of the efforts we have undertaken to date:

1. We successfully entered into a cooperative agreement with the National Fish and Wildlife Foundation to administer \$1.5 million in funds initially designated for the Northwest Atlantic Ocean Fisheries Reinvestment program. In this way, we will be able to leverage funds through the National Fish and Wildlife Foundation community. We currently are reviewing proposals and expect to make awards within the next several weeks.

2. As part of the review process for making these awards, we have instituted a review committee consisting of representatives from the National Marine Fisheries Service (NMFS), the National Fish and Wildlife Foundation, and the Office of Sustainable Development to ensure that the projects are consistent with a comprehensive approach to aid the region. By doing so, we can coordinate our efforts with those of other grant programs to ensure the most effective use of limited dollars. Additionally, we can also coordinate our efforts to address identifiable needs as determined by individuals who participated in two series of town meetings which were held in nine communities in the first five months of this year.

3. In April, we established fishing family assistance centers in Gloucester, New Bedford, Provincetown, and Portland, Maine. These centers were set up in conjunction with the Industrial Services Program here in Massachusetts and are intended to serve as one-stop shops for assistance to fishermen and their families. In addition, we recently have established two mobile centers in Narragansett, Rhode Island, and Rockland, Maine to service areas not covered by the permanent centers. Although the centers have gone through expected growing pains, we have recently announced the hiring of six employees to staff the centers on a full-time basis. The purpose of the centers is to serve as full-service assistance points for fishermen who need information on the range of federal, state, and local assistance available to them.

4. On July 11th, the Economic Development Administration (EDA) announced the award of more than \$6 million in grants to fishing communities, including \$1.5 million to Gloucester and \$2.5 million to New Bedford. The purpose of these grants is to establish revolving loan funds which will then loan money to fishermen and fishing-related businesses to help them during this difficult transition. One of the distinguishing characteristics of these monies is that the decisions on these loans are to be made at the local level, which in our estimation is the appropriate level.

5. On July 8th, NMFS published in the Federal Register a solicitation for \$4.5 million in fishing industry grants designed "to meet the most pressing needs of fishermen who are affected by the decline of the traditional fisheries in the northeast and recent federal regulatory actions, and who require assistance in developing alternative employment or new business opportunities." The application deadline is August 22 and applications should be sent to the NMFS regional office in Gloucester. A copy of the notice outlining the process is attached to my written testimony, and I also have applications with me for anyone who is interested. Also, informational meetings are being held in the family assistance centers to discuss grant application procedures.

6. We have established a working relationship between NMFS and the EDA to review all grants and loans in an effort to ensure that loans are not made which could have an adverse impact upon the resource. This review process serves as a resource check on the economic development elements of the comprehensive plan.

7. After numerous meetings and discussions with representatives from the region's financial institutions, the SBA has developed a special fishing industry loan guarantee program entitled the Fishing Industry Loan Restructuring Initiative. This program involves SBA working with financial lenders to place an agreed upon amount of debt either on a standby basis or else completely written off and SBA will then guarantee the remainder. For the purposes of this initiative, the 29-day currency rule that exists in the current SBA 7(a) program is waived. This is a paramount consideration in light of the cyclical nature of fishing industry income.

8. Finally, a report documenting the needs identified in the northeastern communities and recommendations as to where we go from here will be released shortly. The report reflects our efforts to date and is intended to act as a road map for future fisheries policies.

In conclusion, Mr. Chairman, the efforts which we have undertaken so far in the Northeast represent a fresh new way of dealing with seemingly intractable public policy dilemmas. Sustainable development of our local economies and natural resources can and will prove to be a valuable legacy to our future generations. With your assistance, this Administration is making this a reality here in the Northeast. I would be happy to answer any questions which the Committee may have at this time.

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[Pages 35107-35111 of the Federal Register, vol. 59, No. 130, Friday, July 8, 1994, Notices, may be found in the committee files.]

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## PREPARED STATEMENT OF CHARLES H. COLLINS

### SUMMARY OF FINDINGS AND CONCLUSIONS REGARDING THE NORTHEAST FISHERIES CRISIS

#### *Resource and Industry Trends*

The Gulf of Maine and Georges Bank support some of the richest fisheries in the world. The loss of this resource would be equivalent in scope to the loss of any of the richest and most productive terrestrial ecosystems. The northeastern fishery resource has been under steadily increasing fishing pressure since World War II. It has declined precipitously in the last two decades, primarily due to overfishing, which occurred because the management system failed. Today the commercial viability of the fishery and the ecological viability of certain species are in question. If current trends are not reversed, a world class renewable resource, which could have provided sustainable jobs throughout the New England coast and much need protein for world markets, could be lost.

The northeastern fishery "problem" is large, complex, difficult to solve and has many competing stakeholders. The problem evolved over many years and the factors which combined to produce it are deeply ingrained in the management system and the socio-economic structure of the fishing communities. "Solving" the problem will require persistence and patience from all key stakeholders and funders. Comprehensive, collaborative long term solutions that are aimed at the fundamental causes of the problem must be developed and implemented. Prior efforts to address the problem have failed because they provided superficial short-term solutions which were focused on the symptoms of the problem rather than its root causes.

The northeastern U.S. commercial fishing industry is fragmented, disorganized and subject to intense competition over access to key fishing grounds and markets. The northeastern fishing industry is, in fact, a collection of dozens of different fisheries which are distinguished by the species of fish caught, their geographic location and boundaries of the fishery, the gear type used, the vessel size, or in some cases, the ethnic group which dominates. The fragmentation of the industry and the communities involved has greatly impeded efforts to develop a comprehensive vision over the years, and it will continue to be a major impediment for the foreseeable future.

The northeastern fishing industry historically has been a flexible multi-species fishery. Traditionally commercial fishermen in the Northeast have shifted between different fisheries depending upon seasonality of resources, markets in certain parts of the fishery, the health of the stocks and market conditions. As a result, the groundfishery is inextricably linked to the other fisheries in the region. Changes in the groundfishery have effects on fisheries like the lobster, shrimp, scallop, and urchin industries. Similarly, the declines in those fisheries place additional pressures on the groundfishery. Over the past decade managers have at times suggested that full time fishermen in specific industries are more efficient than seasonal fishermen. However, if effective management programs are developed, so that the seasonal fishermen are efficiently using the ecosystem this may be a key to sustainability.

In addition to the groundfishery, virtually all of the major commercial fisheries in the northeast are under some degree of stress. These fisheries also are the subject of conflict and competition among fishermen and between fishermen, managers and conservationists. Examples include:

- 1) Amendment 4 to the scallop plan is intended to significantly reduce the scallop harvest. The debate surrounding Amendment 4 to the scallop plan has been almost as contentious as that surrounding Amendment 5.

- 2) The sea urchin fishery has experienced extraordinary growth over the last five years. As other fisheries declined, the urchin industry became a critical income

source for fishermen and some processors. Massachusetts enacted an emergency closure of the urchin fishery this year.

3) Efforts to protect the harbor porpoise from coastal gill net fisheries may result in curtailment of or reductions in those fisheries.

4) Battles among sportfishermen, commercial fishermen and environment groups over international blue fin tuna allocations at ICAT has exacerbated tensions between those parties which spill over to the groundfish issue.

The cumulative effects of these issues must be factored in to any revitalization plans. The groundfishery cannot be viewed in isolation. Transition and economic diversification strategies for the ground fishery must take into account trends in the other fisheries and their prospective impact on the affected communities if they are to succeed.

Fishermen in the northeastern industry who depend upon ground fish from the Georges Bank will be the hardest hit by the decline of the industry. The harvesting sector has downsized and it will continue to downsize. Passage of Amendment 5 and other regulatory actions such as Amendment 4 to the scallop plan and emergency closures of the urchin industry may in the short term accelerate dislocation in certain areas. However, significant dislocation was already underway due to precipitous declines in the fish stocks. In the short term, the communities which will be hardest hit will be Gloucester, New Bedford, and the Maine ports.

Fishermen in the northeast are forced to compete with low cost imported fish, which, in most cases, are harvested with little regard to conservation of fish stocks and few regulatory constraints on fishing practices. Efforts should be initiated to examine the feasibility of imposed import requirements on foreign fish imports which "level the playing field" and requires foreign fishermen to adhere to conservation measures which are consistent with restrictions imposed on U.S. fishermen fishing in U.S. waters.

Northeastern fresh fish processors have not been able to compete on a volume basis with low cost foreign processors in the world markets because of declining supply, lack of dependability of supply, quality problems, volume problems, and the cost structure (Kearney 1993, Snow 1990). Importers will probably continue to thrive as U.S. consumer demand for fish remains strong. The future of the Northeastern fresh fish processing industry appears to lie in the development of small, flexible niche fresh fish processors which can be supported through small business incubators and micro-enterprise lending programs (Kearney 1993, Snow 1990).

Overall, the northeastern processing and distribution industry will not be severely affected by cutbacks caused by Amendment 5 and other regulatory actions reducing availability of fresh fish. However, selected processors who specialize in fresh fish and have failed to diversify their sources of supply may go out of business. Fresh fish processors have been declining for two decades while many importers have flourished.

### *Management*

The Northeast groundfishery did not "collapse". Fish stocks have been in a steady downward spiral since 1980. Overfishing has been identified as the principal cause of the decline. It is likely that other factors, such as pollution, habitat loss, and changes in water temperature have contributed as well, but their effect is not known at this time. Trends in the fishery have been apparent to managers, commercial fishermen, and fisheries scientists for years. The decline is the predictable culmination of years of mismanagement and failure to address the fundamental problems facing the resource and the fishing industry.

Although it may seem self-evident, the over-riding principle guiding any recovery effort for the northeastern fisheries should be to avoid taking any action which will exacerbate or expand the fisheries crisis within the region or to other regions. In fact, however, federal relief programs, as presently crafted, may at best merely provide short term relief to fishermen who have targeted groundfish by shifting pressure from the devastated groundfishery to other fisheries which are already under stress.

The Department of Commerce has announced a relief package of \$30 million in federal disaster assistance for the northeastern fisheries crisis. This action brings the total federal relief package to \$32.5 million. Those monies are intended to be spent for efforts which will ease the short term dislocation caused by the enactment of regulations under Amendment 5 of the Groundfish plan and Amendment 4 of the scallop plan. The funds can be spent on refinancing for vessels and mortgages, retooling vessels to shift to under-utilized species, aquaculture development, research on gear and technology to reduce waste. If these programs are not coupled with active programs to reduce the fishing power of the northeastern fleet they will only provide short term relief to a small group of fishermen in Gloucester and New Bed-

ford who are most dependent on groundfish of all the northeastern ports. However, they will not solve the problems in those ports, and they could well exacerbate rather than reduce the fisheries crisis in other ports by shifting fishing pressure from the depleted groundfish stocks to other fisheries which are already under serious stress.

Estimates of the total funding needs vary widely depending upon how they are calculated and what is included, but they will require several hundred million dollars. It is clear that a blend of funding sources will be required. However, Federal and state governments and the industry groups will have to shoulder the majority of the funding responsibilities. In particular, the short term relief efforts for the fishermen their families and the affected communities will require a large scale infusion of capital and direct aid funds. The foundation community and the non-profit sector do not have the resources necessary to meet these needs. However, they can help to initiate efforts and provide operating support to non-profit organizations which are assisting with effort.

The preliminary relief programs announced by the Department of Commerce do not contain any provisions for a vessel buy out program or other programs to actively reduce fishing power in the northeastern fleet. If fishing power in the northeast is not reduced, the northeastern fishery crisis rapidly will become the Atlantic Coast fishery crisis.

Effective management of the fishery resource must be the highest priority of any fisheries management system. Only with healthy fish stocks will there be a healthy sustainable fishing industry. However, effective management can only be achieved by first recognizing and accommodating the scientific uncertainty which is inherent in the system and the value systems and socio-economic realities of the fishing communities which it is intended to regulate.

At best, Amendment 5 will reduce and possibly eliminate over-fishing. However, it will not restore depleted groundfish stocks in the northeast to levels of abundance. Early efforts to implement Amendment 5 to the groundfish plan and Amendment 4 to the scallop plan have been a disaster. There is massive confusion in the fishing sector over what regulations will actually go in to place at what time. NOAA and NMFS have shown that they are unprepared to effectively deal with implementing and enforcing the complex regulations which have been passed. The agencies are losing credibility daily.

Scientific uncertainty is an inherent component of managing a complex and dynamic marine fishery. The regional fishery management council system established under the Magnuson Act has proved to be incapable of effectively contending with that uncertainty. Significant resources have been and should continue to be devoted to reducing the degree of uncertainty associated with management decisions. However, the scientific community and other stakeholders, must come to grips with the scientific uncertainty that is inherent in the management process, and redesign the system to effectively accommodate that uncertainty.

The greatest challenge in managing the northeastern ground fishery and related fisheries is managing the fishing community not assimilating the science. The Fisheries Management Council system has proved incapable of accommodating the complex internecine pressures inherent in managing a "commons" resource with many fragmented stakeholders. The FMC system does not effectively assimilate a key component—the fishing communities. The managers have focused on trying to manage the fishery resource when they should have been managing the people who were earning their livelihoods from it. The commercial viability of certain species and whole fisheries is now in question. If those stocks collapse completely, the region will also lose some of its most important sources of cultural and biological diversity.

The Gulf of Maine and Georges Banks fishing grounds comprise an ecosystem which transcends political boundaries between Canada and the U.S.. Yet each country's waters are managed independently with little collaboration, in spite of the existence of the Gulf of Maine Council. Resources need to be devoted to fostering collaboration between U.S. and Canadian managers, scientists, and conservationists at a number of levels.

Development of markets for underutilized species to shift fishing pressure from the species which are in the worst condition to those species which are not currently considered overexploited is a major priority for Gloucester and New Bedford. These proposals are opposed by small vessel fleets in Cape Cod, Maine, and at Pt. Judith because of fears they will create over-capacity in those fleets. Diversification of fishing pressures from stocks which are at a crisis stage to stocks which are healthier is a legitimate strategy. However, proposals supporting the opportunities represented by so-called underutilized species are significantly overstated and unrealistic. They create false expectations for political leaders and fishermen and could well exacerbate rather than resolve the fisheries crisis.

"Underutilized Species" is a misnomer which should be eradicated from the vocabulary of fishing. In the northeast of 19 of 27 species currently classified as commercial, are already over exploited or fully exploited. It creates false and misleading impressions for politicians and fishermen alike that there are large numbers of species which could sustain significant increases in fishing pressure. Based on data from NMFS and the accounts of commercial fishermen, the only species in the northeast which are not currently fully exploited are mackerel and possibly herring. Contrary to the popular impressions, these species already support small, but viable, niche fisheries. In addition, mackerel and herring may be the few remaining critical prey species available to migratory pelagics, such as the blue-fin tuna.

Over the next year the greatest socio-economic dislocation caused by the northeastern fishery crisis will be in the ports of Gloucester and New Bedford, Massachusetts which are the most dependent on groundfish. The problems in these ports will not be solved by adopting a strategy of shifting fishing activity from groundfish to other species, unless that strategy is coupled with active removal of vessels from the fishing fleets. Shifting fishing pressure from the large vessel fleets to these species will only shift pressure into fisheries elsewhere on the coast which are profitable or marginal, exacerbate tensions among the different fishing groups and accelerate the decline of those fisheries.

Commercial fishermen in Gloucester, New Bedford, Portland, Cape Cod and Pt. Judith have all endorsed the need for a boat buy out to reduce the fishing power of the fleet. This represents a recent and significant change in the willingness of the fleets to begin to approach the issue of capacity. Politicians and managers have not yet grasped the significance of this change, and they remain reticent to endorse a buy-out option because of the perception of current industry "ambivalence" and historic industry opposition to buy-outs. No buy-out plan is currently included in any federal relief package.

Fishing capacity in the northeast is far beyond what the fisheries can sustain. NMFS lists approximately 5300 licensed vessels—4,000 are under 65 feet, 700-750 are between 65 and 75 feet, and approximately 300 are over 85 feet. The 85 + foot fleet include the 200 or so vessels which were pushed off the Grand Banks by the establishment of the Hague line. They supply the majority of the fishing power, are the most powerful, have the highest carrying costs and can fish year-round. No restoration plan will succeed unless the fishing power of this component of the fleet can be reduced.

Estimates of the actual number of vessels which are currently fishing vary widely and are difficult to assess. But, it is clear that numbers have dropped significantly in the past two years and may be down to a level which is closer to being sustainable. However, there is a huge amount of fishing power represented in the vessels which are tied at the dock in New Bedford and Gloucester. These boats could re-enter the fishery at any time. By some estimates, approximately 20 percent of the boats (including the largest vessels) in the northeastern groundfishery catch approximately 80 percent of the fish. Predictably, the 20 percent are the largest, most efficient vessels with the most sophisticated technology. Reducing the fishing power of this component of the fleet should be a fundamental component of transition strategies, including permanently removing those vessels from the fishery.

If the active and latent fishing power in the fleet is not permanently reduced, displacement of the large vessels into other fisheries within the region or outside of it will become a significant problem. A domino effect will occur. The same patterns of overfishing likely will replicate themselves if and when the fishery recovers. Some of the strongest opponents of Amendment 5 are the fishermen who derive the smallest percentage of their revenues from the groundfishery, such as the Pt. Judith Coop. They will not be significantly harmed in the short term by the Amendment 5 restrictions, but they are worried about boats moving off of the Banks onto their grounds. Similarly, in-shore gill net and trap fishermen are equally concerned about the large offshore fleet moving on shore. If that problem is not addressed, the vast fishing power of the offshore fleet will simply be shifted to other species and ultimately expand the fisheries crisis.

Form a task force to assess options for a vessel buy out program, focused on:

- 1) Reducing the active fishing power of the large vessel fleet.
- 2) Leveraging available dollars, whether federal or from other sources, as far as possible, by developing a competitive "reverse auction" bidding process.
- 3) Insuring that the fishing power is permanently removed from the fleet and not shifted into other fisheries.

The battle over fisheries management in New England over the last two years frayed already tenuous relations between fishers, environmentalists and federal regulators. Tensions are only worsening as implementation of the new regulations begins. In several fisheries there is an overwhelming sense of despair over their fu-



ture. Systemic solutions to the problem will not be found through the traditional legislative, regulatory or legal channels employed by the environmental community or Amendment 5 as it is currently drafted. There is no comprehensive transition agenda currently represented in federal or state policies or the proposals of the environmental community.

One conservationist has suggested that the regional fishery management council system represents a fifteen year experiment in bottom-up management which has failed. In one sense he is correct: the existing council management system has failed. However, a true bottom-up system requires that there are constituencies who believe they are represented in the process. In fact, few commercial fishermen in the northeast have ever believed that the Regional Fisheries Management Council represented their interests, and this was true before the debate on Amendment 5 began.

In reality, the present regional council management system is neither a bottom-up nor a top-down management system. It was based on the premise of having a strong regulatory and enforcement agency at the top which would set firm management parameters and enforce regulations which are developed at the council level in the best interest of the resource. In fact, the system has not functioned effectively at either the top or the bottom.

Fishermen's denial has played a key role in exacerbating the problem. Many fishermen refused to believe that the new regulations would actually be put in place, and therefore they did not take steps to order new gear to comply with the changes by the stated deadlines. By the time they did order it, suppliers told them that they couldn't get the gear to them by the deadlines. As a result they raised a hue and cry that they would not be able to comply with deadlines because the gear wasn't available, which in turn led NOAA to extend the deadlines for certain actions. Instead of being salutary, these steps have only exacerbated the regulatory uncertainty in the fishery, and angered those fishermen and boat owners who did take steps to buy the necessary equipment to comply with the rules.

### *Socio-Economic Issues*

The failure of the fishing industry will cause severe economic dislocation in coastal communities from Pt. Judith, R.I. north to Eastport, Me, an area which has already been severely impacted by the recession and military base closings in the northeast. The ports of New Bedford, Portland, and Gloucester likely will be the hardest hit in the short term, because of Amendment 5's impact on the Georges Bank groundfishery and Amendment 4 on the scallop fishery. Over the longer term, however, if the large vessels from the powerful offshore fleets in Gloucester and New Bedford are displaced and move south, which they are likely to do, other fisheries along the mid-Atlantic coast could suffer as well.

Commercial fishermen throughout the northeast have always operated on the margins of society. However, over the last few decades they have become increasingly marginalized and disenfranchised from the communities where they live and from society at large (Hall Arber 1993, Creede 1993). That trend continues today. Dockage and fueling facilities for commercial interests are being displaced by recreational development and alternative commercial development pressures. In many communities, commercial fishing cannot remain viable without concerted, positive action at the community level.

Fishermen throughout the northeast feel disenfranchised and isolated. Contrary to perceptions in the environmental community, commercial fishermen in the northeast have never felt that the industry controls the NEFMC, and they do not believe that the existing management system represents their collective interests or the interests of the fishery resource.

There is presently no vision for the future of the northeastern fishery, particularly relative to the capacity and composition of the fleet which is sustainable. Fundamental questions have not been addressed, such as:

- What do we want the fishery to look like in one decade?
- Is the history here worth saving? Can the character of New England's family-dominated, owner-operator industry be retained?
- What is the commercial fishing component that needs to be saved? What size and composition is viable for the industry to be sustainable?
- Can a limited entry system be devised to achieve those goals?

The answers to these and other questions must be provided by the fishermen and the affected communities. Outside interests and stakeholders must be involved as well, and they can help to provide the resources necessary to help these communities develop the answers. But, they cannot impose a vision on the communities if that vision is to prove to be sustainable.

Lack of a vision has exacerbated efforts to develop practical solutions to the problems facing the resource. Past attempts through traditional regulatory channels to develop that vision have failed, and there has been no leadership at the federal or state level to develop that vision. NOAA has launched a town meetings process in an effort to start to develop a "bottom-up" process for creating that vision. Most fishermen do not view that as a truly bottom-up approach, but it is a start. Although that process faces enormous challenges, it has helped to stimulate a bottom-up community based approach to defining a regional vision.

Responsibility for the failure of the fishery must be shared by the federal government, commercial fishermen, state and federal elected officials, scientists, academic institutions, community leaders in the affected communities, and the environmental community. The federal government helped to cause this problem through its failure to adequately regulate the resource and through its development of financing programs which helped to over-capitalize the industry. Neither the regulatory or legislative branches have exhibited leadership in this failure. Each is reactive in nature, and each responds to perceived constituent pressures. Ironically, much of the federal government's failure over the past two decades was the direct result of their desire, however shortsighted and misguided, to appease the only constituency which was involved in the debate over fisheries regulations for years—the commercial fishing industry—even if the elements of the industry they responded to were not representative of the industry overall.

Clear distinctions need to be made between the short-term and long-term policies and programs required to effectively address the problems of the northeastern fishery. Short-term solutions will include emergency measures to protect the resource, direct economic relief for fishermen and their families, and provide seed funding to initiate transition strategies. The short term programs will not solve the fisheries problem. They can help to reduce the fishing power of the fleet, and they can mitigate the pain caused by the dislocation and downsizing in the industry, and can help to lay the groundwork for longer term efforts. Short term transition strategies should address legitimate economic aid relief requirements in the affected communities, but they should be crafted to support rather than inhibit the development of economically and ecologically sustainable strategies.

Long term strategies must provide for the long term sustainability of the resource and the communities as the overriding goals. The communities' ecological and socio-economic systems should focus on four conditions- diversity, productivity, stability, and adaptability. Revitalization plans should insure that the communities' ecological, economic, and human capital meet the needs of both current and future generations (TNC 1994).

Community economic development programs are a primary target of the current relief programs. Efforts to revitalize the fishing industry through community economic development programs have been attempted before. Some have succeeded over the short term, but none have proved to be sustainable over the long haul. Some of those programs provided short-term benefits to certain commercial stakeholders, they were not sustainable over the long term. To be successful over the long term, economic development programs must be coupled with sustainable management of the resource. Otherwise they will fail, or they may hasten the decline of the resource.

Denial by commercial fishermen of their role in the fisheries' decline, and their unwillingness to accept the ramifications of the consequences of years of overfishing has been a problem for decades, and it continues to be a major problem today. Failure of the major stakeholders to accept blame for their roles in the failure of the northeastern fishery has been and continues to be a major problem. The industry has yet to come to grips with the fact that its fishing power, particularly within the large boat fleet, must be reduced, and that it must downsize to maintain its viability. Until that occurs, the ability to develop effective and realistic transition strategies for the affected communities will be significantly limited.

The current atmosphere of "finger-pointing" and "blame-laying" must be shifted to collaborative problem solving. The commercial fishermen and the commercial fishing industry must accept responsibility for their individual and collective roles in the collapse of the fishery. Similarly, federal bureaucrats and the scientific community must acknowledge their role in the decline of the industry, and the environmental community should acknowledge the legitimacy of the complaints of the commercial fishermen about the failures of the management system and their past efforts to address them. The federal and state governments should assist with ameliorating the pain caused by the collapse of the industry. Fishermen are going to have to band together and reach out to constituencies which they currently do not trust and in fact oppose, such as the environmental community, if there is to be any hope of restoring the resource and maintaining a viable industry.

Conservation organizations cannot limit their involvement in the fisheries to traditional adversarial legal and legislative action, if they hope to establish respectful working relationships with the fishing industry, and they need to establish those relationships. They have a responsibility to work to find practicable solutions which take into account the legitimate concerns of the commercial fishing industry and balance commercial and sport-fishing interests and conserve the resource, even though they may be funded by sport-fishing. Simply trying to reduce over-fishing is not enough, although it should be the fundamental component of conservation strategies. They should shift away from fundraising strategies which are based on polarizing and opposing commercial fishing and instead attempt to find common ground and develop collaborative solutions with fishermen who are willing to work with them.

The future of the northeastern fishing industry will be significantly impacted by land-based development trends in the fishing communities and broader regional economic issues. Any transition strategy or economic diversification strategy must be linked to comprehensive community development plans. Ties should be established between organizations concerned about fisheries management, community development corporations, such as Coastal Enterprises and Working Capital, and land conservation organizations such as The Nature Conservancy, the Trust For Public Land, and land trusts such as the Maine Coast Heritage Trust, which are working to develop sustainable community development initiatives.

The Northeast fisheries "crisis" can only be solved if the need for community economic development and job creation can be reconciled with the biophysical constraints of the resource and the ecosystem which supports it. Indicators of sustainability need to be developed for the Northeast fisheries, the communities involved, and the ecosystem which supports them, which take into account the peculiarities of the region and the fragmentation of the industry.

Criteria for sustainability need to be applied to efforts to revitalize the fishery and the affected communities. These criteria should provide for measuring the health of the fishery five years and ten years out, the health of the communities five years and ten years out, the number of fish and mix of fish stocks desired and the number of vessels which should be fishing.

External economic pressures on these communities combined with the internal problems of the fishing industry will insure that the commercial fishing industry will not survive in many communities unless those communities take steps to provide the facilities and support services to sustain them. Attention should be focused on community-based economic development and planning efforts, which force the key ports, and the towns and cities which service them, to confront the future of commercial fishing within the context of a holistic assessment of their overall community goals.

Past efforts to "revitalize" the fishery largely focused on economic development. These efforts failed to stem the decline of the fishery because they failed to address the fundamental, systemic problems facing the fishery. Nor did they include strong enforceable management plans. Solving the fisheries problem will require the development of a comprehensive integrated approach which addresses the complex array of socio-economic, valuational, political, biological, and institutional problems facing the fishery, the communities which the fishery supports and the region. These tenets must be incorporated into regional and community-based transition strategies. Otherwise the mistakes of the last half century will be repeated and recovery efforts will be doomed from the outset.

Relationships between fishing groups and environmental organizations in New England are contentious and adversarial. The fishing community views the environmental community as the enemy. Resources need to be devoted to repairing those relationships and seeking out areas of common ground. Non-threatening forums for exploring new approaches to solving the fisheries' dilemma need to be developed.

Within the environmental community, the primary responsibility for developing comprehensive long term solutions to the fisheries problem should lie with the regional and local organizations. Developing community based solutions requires significant investments of time and personal relationships which can only be developed through regular close contact with people who have an investment in those communities. The national environmental organizations do not have the relationships and community ties to play an effective role developing comprehensive regional solutions to the northeastern fisheries crisis. On the other hand, the northeastern fisheries crisis is a resource problem of national and international significance. It affects one of the most important and productive ecosystems in the world. The issues associated with it reflect the challenges facing fisheries and marine ecosystems worldwide.

The national organizations can, however, play an important role in the policy debate and can bring important and valuable resources and experience to bear from

other fisheries around the country. Neither the national nor the regional groups have the broad experience, staff, financial resources, or the trust of the fishing community, necessary to forge comprehensive long-term community-based solutions. There are only a handful of organizations devoting significant resources to the northeastern fishing issues. Most argue that the primary factor limiting their expansion in this area is funding. (In contrast, the Northern Forest Alliance has over 25 participating environmental and conservation organizations.) They must be strengthened to deal effectively with this resource problem.

It may be possible to assist some organizations to develop the capability to forge community-based comprehensive sustainable development programs. But other "delivery vehicles" need to be brought in to the fisheries issues as well. These include: community foundations, education institutions, community development corporations, local chambers of commerce, and social service agencies. New relationships among community development organizations, the conservation community and fishing groups need to be forged and new institutions may need to be developed to fill the gaps which cannot be met by other existing institutions.

Women play an important and unique role in the commercial fishing industry. Because of the amount of time the men spend away at sea, women play the predominant role in the family and the community, and many play key roles in the family business, essentially running the shore-side operations. In Maine women dominate the "sellers' representative" side of the processing business, representing the fishermen at sea. Fishermen's wives organizations throughout New England play critical roles in the policy and regulation-setting process, often because the husbands are at sea. In the communities of Gloucester and New Bedford, where there are heavy first and second generation ethnic concentrations in the fishing industry, often the men don't speak English, and the wives serve as the communications link with world outside the fishing fraternity. The role of women and its implication for developing long term strategies for the future needs to be assessed, and fishermen's wives organizations need to be supported and strengthened.

#### *Politics and Policy*

Efforts of the environmental community to affect federal policy relative to the northeast fishery are largely limited to the Magnuson Act and reformation of the Council process. While these efforts are important, the future of the industry may well be as influenced by the availability of capital. New sources of capital need to be developed to help underwrite transition strategies and efforts to diversify the economies of the coastal communities which are dependent upon the fishing industry. Dozens of federal programs exist which could be tapped to provide direct relief for fishermen and loans to help "revitalize" the industry. Congressional offices and the Clinton administration are moving ahead with proposals to access emergency funding for the fishermen. These programs need be identified and analyzed for their applicability to this problem.

The ongoing political and policy process surrounding the northeast fishery "crisis" is extremely controversial, dynamic, and subject to significant change on a daily basis. This issue has already been significantly influenced by election-year politics. Elected officials are acutely focused on attempting to accommodate fishermen's request for aid, even if those requests are not in the long term interest of the resource or the industry. That influence may increase, as it gets closer to the elections.

Efforts aimed at influencing federal policy which fail to take into account local community economic development issues will not address the long term problems associated with the fishery. At the same time a "bottoms-up" local community-based planning effort focused on developing economically viable and environmentally sustainable initiatives will not succeed unless it is coupled with federal policy initiatives which set some regional parameters for the fishery resource. A comprehensive strategy is required, which combines both a top-down and bottoms-up approach.

After the endless regulatory battles surrounding Amendment 5 and two decades of seemingly fruitless scientific research, the fishing community is crying out for practical results-oriented projects targeted directly at stock restoration, development of markets for under-utilized species, value added marketing strategies, boat buy-backs, mortgage relief, tax relief, aquaculture and mariculture development. However, these short term initiatives need to be developed within the context of comprehensive strategies intended to address the root causes of the fisheries's current situation. This will require the establishment of firm parameters tied to the long-term sustainability of the resource. Otherwise we are destined to repeat the pattern of over-exploitation of the last century.

Fishing communities are crying out for action—not more study. Various specific proposals for revitalizing the fishing industry have been advanced in various ports. These include: display auctions/fish exchanges, fishermen's co-ops, small business

incubators, harvester's or processor's fees, creation or expansion of loan funds or venture capital funds, alternatives to commercial fishing that are fishing related, e.g. whale watching, data collection, aquaculture, fish waste processing, etc. Some of these proposals represent new ideas, but many have been around for years. Many of these concepts have merit, but all should be evaluated within a regional as well as a local context. What may be good for Gloucester, may not be good for New Bedford, or may be counterproductive to the health of the fishery overall. In the rush to develop real solutions to the communities' problems, economic diversification and transition strategies should still be subject to rigorous feasibility analyses.

Developing markets for under-utilized species is fraught with a number of problems, specifically the difficulty of developing markets for several species, reducing stocks of species which may have filled in feed niches for large predatory pelagic species which themselves are in trouble, conflicts with existing fisheries, and the potential for replicating the patterns of rapid overexploitation which have characterized existing fishing efforts. A case in point is the urchin industry in Maine and Massachusetts. In only 3 years a flood of fishermen into that fishery has caused stocks to plummet and forced emergency closure of the fishery. Significant resources should not be applied to the development of fisheries and markets for under-utilized species unless strong enforceable management plans are first put in place, which take into account the health of existing fisheries and the long term sustainability of the resource.

### *Science and Research*

In spite of years of research on the status of stocks of principal groundfish species, large fundamental gaps in knowledge remain in understanding the factors which affect the health of the fishery. Broad scale ecological research is needed on such topics as: implications of shifts in temperature in the currents in the Gulf of Maine and Georges Bank on spawning success, research on the long term cumulative effects of otter trawling on the marine bottom, research on specific effects of changes in gear types, dragging times, and other fishing techniques on landings and mortality. As presently constituted, existing government fishery research programs will not provide the answers to these key issues. The process for establishing government research priorities needs to be opened to external peer review, and additional funds need to be developed to support non-governmental science.

The quality and reliability of fisheries research has been subject to intense criticism from commercial fishermen, non-governmental academics, and the environmental community alike. The fishing community has alleged at various times that the current research practices are focused on the wrong resource issues and fail to take into account natural cycles in fisheries populations and movement of fish stocks among fishing grounds. This concern is exacerbated by the failure of the research community to process data in a timely way and make results available to the industry in a manner that is readily understandable. Non-governmental scientists believe that the current government-sponsored research is insular and fails to receive sufficient external peer review, and thus is resistant to new ideas and approaches such as shifting to broader ecosystem analysis. Many environmentalists believe the NMFS scientists have captured by the fishing industry and have been intimidated about releasing data which runs counter to the industries interests. The current fisheries research system needs to be opened to outside peer review.

In spite of critiques of the quality of fishery research, researchers and managers have known for years that the fish stocks were being over-fished. The regional fisheries management council system has utterly failed to anticipate and respond to the problems facing the New England ground fishery and related fisheries. The FMC system repeatedly missed opportunities to take actions at critical junctures which could have stemmed the decline of the fishery. The system does not serve the interests of the fishery resource, the commercial fishermen, recreational fishermen, or the general public. That system needs a drastic overhaul in the Magnuson Act reauthorization which will occur this year in Congress. New approaches to managing the fishery, including particularly a review of options for limited entry and bottoms-up management, need to be explored and if successful implemented.

Data on the size and scope of the fishing industry and the jobs associated with it is sketchy and anecdotal. Data on certain segments of the industry is maintained by NMFS on a regional level, but much of that data, such as the catches of individual vessels is confidential. There is no centralized repository of data which is accessible to researchers and decision-makers which clearly quantifies the economic scope of the Northeast fishing industry and the total number of jobs tied to it. As a result, the reliability of data on the industry, particularly that which relates to the potential impacts of reductions in fishing effort, is frequently called into question by fishermen and environmentalists.

Fishermen do not trust the scientific and academic communities and the reverse is also true. Fishing groups are impatient and frustrated by government sponsored research programs which do not seem to be targeted on solving specific problems. They do not trust, and in many cases do not understand the relevance of the scientific data that is produced. They feel that much of the fisheries research is, at best, irrelevant and not focused on the core problems facing the industry, and at worst politicized and manipulated to advance the interests of the regulatory agencies. Forums for breaking down communication barrier between fishermen and scientists need to be developed, and the scientific community needs to work aggressively to get data, particularly that which is collected through the observer program, back to the fishermen and other stakeholders. This would help to build some bridges of trust and give all stakeholders an even "playing field" of information.

#### *Financing/Capital*

National and regional conservation organizations have had virtually no involvement in the development of the federal relief package for the northeastern fishery, in spite of the fact that the relief package will have a considerable effect on the future viability of the industry and the fishery. These organizations need to develop the capability to participate effectively in the these issues. Otherwise conservation interests may never get the focus and representation they require.

The northeast fishing industry is grossly overcapitalized. The number of boats, licenses, and fishermen working the fishery must be reduced if the industry is to survive. Significant down-sizing has already occurred and will continue, regardless of Amendment 5. Precise figures on the impact are difficult to obtain because data is sketchy, and fishermen move between fisheries.

Debt Service, liability insurance, and health insurance are core concerns for fishermen and their families. Many fishermen in the large boat fisheries have \$30,000 to \$50,000 monthly in fixed costs. Liability insurance averages \$33,000 a year per boat. Most of the debt is secured by personal guarantees from the fishermen or by their houses. These fixed costs exacerbate pressures to maximize harvest. As the fishery has declined, it has become almost impossible for fishermen to obtain access to capital through conventional financing and government loans. Many fishermen do not carry health insurance because they cannot afford it.

Transition strategies and economic diversification programs will require the development of community based financing, including community development banks, community development loan funds and credit unions, micro-loan funds and community development corporations. Certain vehicles already exist, such as The Gloucester Fishermen's Loan Fund, Coastal Enterprises, and Working Capital. These institutions need to be supported and expanded. These institutions and the programs they administer are working and could have significantly broader impact. They require both additional capital for debt and equity investments, and core operating support to oversee and develop their networks and effectively administer their programs. In addition new entities may need to be developed, such as a fishermen's trust, which could acquire strategic properties for the fishing industry.

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#### SUGGESTED GOALS FOR AIDING THE NORTHEASTERN FISHERIES CRISIS

- 1) Restore and maintain a viable fishery resource and the ecosystem which supports it.
- 2) Restore and maintain a sustainable commercial fishery and the jobs and way of life it supports.
- 3) Mitigate the socio-economic dislocation caused by the restructuring (loss in some areas) of the commercial fishing industry and help effect a transition from local economies based on commercial fishing to other more viable and sustainable economic activities.
- 4) Avoid actions which knowingly expand the northeastern fisheries crisis into other fisheries or regions by shifting fishing pressure into other fisheries.

#### SUGGESTED PRIORITIES FOR A NORTHEASTERN FISHERIES RECOVERY EFFORT

- 1) Establish, maintain, and enforce strong conservation regulations to protect fish stocks.
- 2) Minimize the pain in the communities which will be most affected by the declines and restrictions on the groundfishery and other related fisheries. Target city, state and federal social service and community development programs aimed at the affected communities.

3) Launch a bottoms-up process involving all key stakeholders to determine the capacity of the fleet which is sustainable over the long term. What size should the fleet be? What should its composition be?

4) Form a working task force of fishermen and other stakeholders to examine options to actively reduce the fishing power and the capacity of the northeastern fishing fleet, including, particularly, a vessel buy-out program.

5) Initiate programs which can begin the process of shifting the fishery to smaller scale economically and ecologically sustainable fishing, processing, and distribution systems. Diversify the fishery and reduce the dependence of fishing communities on large vessel fleets. If possible, maintain the owner-operator character of the fishery.

6) Initiate economic diversification programs to develop new sustainable business and employment opportunities for fishermen and fishing communities which may or may not be tied to the fishery.

#### POLICY, PROGRAM, AND FUNDING NEEDS

##### *Short Term*

1) Collect and compile comprehensive information on the number of vessels, fishermen, affiliated businesses, the size and composition of the fishery, the market costs, and overall economic impact of the fishery to the region and develop one or more centralized data bases to house and update the data.

2) Establish the northeastern fisheries problem as a priority of equivalence to the Pacific northwest timber and salmon problems for the White House and the White House Council on Sustainability.

3) Develop a co-ordinated federal inter-agency response to the problem. Establish a federal task force of stature to the Pacific Northwest Timber Task Force with representatives of all agencies with regulatory or funding authority relevant to the fisheries problem, White House, Commerce, HUD, HHS, Labor, Agriculture, Interior, SBA to co-ordinate the federal response. replicate those task forces in each affected state and involve relevant state relief agencies.

4) Undertake a detailed analysis of the various available options for reducing the size of the large vessel fleet and permanently removing vessels from the groundfishery, particularly boat buy backs. Support organizations focused on exploring policy initiatives and funding sources to facilitate boat buy out alternatives. Assess other buy-out programs for examples which may be applicable to the northeastern fishery.

- Establish a competitive bidding process to stretch available funds as far as possible.

- Consider voluntary buy-back funded by disaster aid monies, some form of user fee for the industry.

- Focus on reducing the fishing power in the fleet. Specifically target the 200 largest vessels (above 85 feet) built since 1974.

- Boats and licenses which are acquired should be permanently removed from the fishery and precluded from entering other U.S. fisheries.

5) Develop matching grant support for NOAA's \$1.5 million seed-funding for high priority projects which emerge from the community-based planning efforts. Insure that those projects embody the goals of securing the long term sustainability of the fishery, the fishing industry and the communities.

6) Launch a professionally facilitated bottoms up community-based planning process in the coastal communities most affected by the collapse of the Northeastern fishery. Build upon the NOAA town meeting initiative. Insure that these communities have sufficient financial and professional resources necessary to effect the development of comprehensive, realistic actions which will assist in the forthcoming transitions. Where appropriate, identify opportunities for economic diversification.

7) Provide support for professional mediation and negotiation services and training for the fishing industry and communities participating in the bottoms-up process.

8) Provide basic core operating support for fishermen's relief and support organizations or social service agencies which could provide those service to fishermen in affected communities.

9) Develop Family Service Centers in individual ports and for regions to deliver relief programs and funding.

10) Undertake comprehensive co-ordinated analysis of the federal programs which could provide direct support and relief to commercial fishermen, including federal disaster assistance. Assess the opportunity each presents for assisting with New England Groundfish issue and target appropriate programs on the region. The appropriations process is a critical component of this approach.

11) Undertake comprehensive co-ordinated analysis of the state programs which could provide direct support and relief to commercial fishermen, including state disaster assistance. Assess the opportunity each presents for assisting with New England Groundfish issue and target appropriate programs on the region. The appropriations process is a critical component of this approach.

20) Support efforts to develop economic opportunities by processing fish waste and efforts to reduce fish waste at sea associated with "by-catch".

21) Develop a collaborative marketing task force(s) involving distributors, retailers, harvesters, state and federal officials and conservationists to explore opportunities for developing new markets for northeastern fish products, with an overriding goal of maintaining ecological sustainable fish populations.

22) Develop regional aquaculture task force of local officials, regulators, environmentalists, scientists, and fishermen to explore avenues for easing regulatory burden on small start-up aquaculture business while maintaining high environmental standards. Experiment with small scale pilot leasing programs.

23) Developing revolving loan fund(s) to enable vessels to refinance existing debt to lower payment schedules for vessels which will remain in the fleet. This should be tied to a concurrent plan to actively reduce the fishing power of the fleet.

24) Establish, support and expand Community Development Corporations focused on coastal communities most affected by the fisheries crisis to finance transition activities for the fishery. Programs could include developing co-ops, building marinas, re-tooling boats, and selective gear development and to finance economic diversification projects to build a sustainable economic base for the region.

25) Establish, support, or expand development of regional micro-enterprise lending programs to finance small business development activities and economic diversification efforts. Target programs on the communities which are most affected by the collapse of the fishery to help finance fishing related transition strategies and economic diversification. Ex: Gloucester Fishermen's Loan Fund; Working Capital's Micro-Enterprise lending program.

26) Develop small business incubators in strategic port areas to aid in market development, product development value-added processing and marketing initiatives. If proved to be feasible seed the enterprises.

27) Develop other new sources of capital, such as loan funds or venture capital funds to finance fishing or non fishing transition economic diversification initiatives, including alternatives to commercial fishing such as sport-fishing, whale watching, data collection- new roles for fishermen.

28) Support efforts to achieve a strong and comprehensive re-authorization of the Magnuson Act which includes significant restructuring of the regional fishery management council system. Focus on the long term viability of the resource over short term economic gain. It should encourage innovative, flexible bottoms-up management while establishing tough "top-down" parameters, insuring that the fishery resource and the ecosystem which supports it will be protected.

29) Support the facilitation of small informal gatherings and discussions among fishermen, conservationists, managers and scientists aimed at improving communications and understanding among these groups. Establish liaison(s) between the environmental community and fishing community- an honest broker to enhance communications and break down barriers between the two camps.

30) Support coordinated efforts to assess federal and state programs available to aid the fishermen and working to secure federal and state relief for fishermen and the fishery.

31) Examine strategies employed in the Pacific Northwest spotted owl debate, and the northern forest debate and the Farm Bill for examples which are applicable to New England fisheries.

32) Underwrite a comprehensive history of the Northeastern fishery problem. Stakeholders need to know how we got here to determine where to go in the future.

33) Underwrite production of a feature length documentary of the history of the New England groundfishery suitable for feature viewing on public television.

34) Develop an anthology of Fisherman's observations- "anecdotal research" on trends in the fishery and the causes- through personal interviews with fishers. The project could produce worthwhile data, plus it could help to address the issue that the fishing community feels the scientists do not take their observations seriously. The anthology should be coupled with a process designed to open communication.

35) Support efforts to examine user fees or landing or processing fees, with proceeds earmarked for the retooling and restructuring the industry to complement funds that may be generated from federal, state or philanthropic sources.

36) Develop and support community grantmaking that focuses on empowering the fishing community and developing capacity for self-representation to maintain the way of life. The community based planning effort could serve as the basis. Support



programs which facilitate community involvement in the management of economically significant marine resources, including examining new economically viable alternatives to fishing for fishing communities.

37) Develop linkages between the northeast fisheries recovery effort and the Sustainable Communities Project in Northern New England. Consider the prospects for using the fishing crisis as a catalyst to advance holistic community sustainable development initiatives.

38) Develop set of indicators of sustainability for the fishery, the marine ecosystem which supports them, the communities, and the region.

39) Establish program director to co-ordinate a long term foundation initiative.

40) Strengthen role of fishermen's wives organizations and develop regional linkages to foster communication and collaboration.

42) Develop informal forums of environmentalists, managers, scientists and fishing groups to explore avenues for collaboration and break down mistrust and antagonism.

### *Long Term*

#### *Management*

1) Develop appropriate economic and social incentives for harvesters and processors. Explore and test co-management approaches which share management responsibility among government, councils, fishermen and fishing communities. Examine collective decision-making processes employed in agriculture for applicability to the northeastern fisheries. Support fishermen's initiatives to develop institutional capacity to engage in management and to increase their accountability for stock health.

2) Incorporate fisheries and habitat management as key priorities in local and regional economic development programs.

3) Assess the broad array of limited entry fishery models currently in use in the U.S. and internationally. Examine the successes and failures of those systems and the factors which contributed to their current status. Assess the applicability of those systems or components of those systems to the northeastern fishery. Develop and test experimental limited entry programs in the northeast to assess their effectiveness. Involve fishermen, conservationists and regulators in the development of the pilot programs.

4) Support efforts to diversify fishing pressures from "over-utilized" species to a broader range of species, by experimenting with the development of carefully controlled model fisheries. Avoid shifting fishing pressure onto already stressed "non-targeted species". Model fisheries could include mackerel, herring and red crab. Incorporate the principle of sustainability of the fishery resource and precautionary management for both targeted and non-targeted species as the core guiding principle backed up by strong enforceable management programs.

5) Develop support programs, including new seed funding sources, for pilot aquaculture and mariculture business development. Examine and test opportunities for applying harvester skills and resources to aquaculture production.

6) Support efforts to economically restructure the harvesting sector to sustain the economic viability of those sectors which are economically and ecologically viable over the long term, including its owner operator character of the industry during the rebuilding period and improve the capacity of the offshore fleet to adapt to changes in resource productivity and availability.

7) Support efforts to establish and develop linkages between Canadian and U.S. environmental and community advocates to explore the common themes of fisheries management and resource conservation around the Gulf of Maine, and to foster communication and collaborative management between U.S. and Canadian fisheries managers.

8) Develop a coordinated long term ecological and economic strategy for the Gulf of Maine and Georges Bank.

9) Define ecosystem management and support efforts to increase available resources and focus of managers and scientific community and fishermen on broader ecosystem issues.

10) Support efforts to rebuild the natural linkages between the small-boat-owner-operator fisheries and the environmental community.

11) Support initiatives to import successful examples from other domestic and international fisheries to educate the fishermen, council members, and community leaders.

#### *Education and Public Awareness*

1) Support programs to integrate fisheries issues into grade school and secondary school curricula in northeastern coastal communities.

2) Support programs intend to enhance the understanding of the general public about the problems and challenges facing northeastern marine fisheries. The general citizenry doesn't understand the arcane fishery management system, the extent of the problem of over-fishing, linkages of pollution, by-catch and a system which promotes wasteful fishing practices. The general public needs to be more involved in the fishery management process, but to do so effectively they need to receive objective balanced information about the issues surrounding the resource.

3) Underwrite efforts to enhance the development of interdisciplinary curricula for fisheries research institutions, to strengthen study of ecological principles, sociology, social anthropology, leadership development, mediation, and other skills. This would produce better-trained professionals who are capable of dealing with the complex socio-economic problems they face in their jobs.

4) Support efforts to educate the general public about the Gulf of Maine as a bio-region and the role of fisheries there-in.

5) Support education and public awareness efforts designed to integrate fisheries conservation with broader scale marine and coastal resource conservation concerns and initiatives.

6) Support opportunities to provide technological backing/training to entrepreneurs with limited skills. Support training to enhance the business skills of those fishers who will remain in the industry, particularly strengthening harvesters ability to enhance their marketing. Also, retraining programs to facilitate the shift of fishers into other enterprises not related to the fishing industry.

7) Develop a network of regional resource centers focused on the natural resources of the region, including the fisheries.

8) Redefine the vocabulary of commercial fishing to reflect realities. Eliminate phrases and concepts such as "under-utilized species" and "by-catch" which foster misconceptions about the status of the resources and management priorities and practices.

### *Science and Research*

1) Strengthen and expand the sea sampler program particularly by expanding observer coverage of selected fisheries. (To date less than 2 percent of the trawl fishery has been covered.)

2) Support efforts to rapidly analyze data collected in sea sampling programs and get it back to the fishermen, so they know what is being developed on their boats. It can be one of the most effective vehicles for building bridges between environmental community, NMFS, and fishing groups. It is one of the few positive functioning links between the fishermen and the conservation community.

3) Fill gaps in fisheries analysis now being carried out by NMFS and related institutions. Only the most pressing issues have been addressed to date. There has been little or no research on critical issues such as technical factors contributing to by-catch.

4) Strengthen role of non-governmental science in fishery and reduce the dominance of federal government controlled science. Fisheries research is dominated almost exclusively by the federal government today. their science receives little peer review and is often subject to charges of political manipulation. Private fisheries research needs to be strengthened and federal fisheries science need story be opened to the outside world.

5) Strengthen collaboration between research institutions. Provide seed funding to assess the potential for developing a formal consortium of research institutions.

6) Support research on predator/prey relationships to determine potential impact of shifting fishing pressures to currently non-targeted species. What will the effect be of developing markets and increasing the catch of mackerel and herring on pelagic species and marine mammals populations?

7) Support applied research examining options for reducing mortality of marine mammals from fishing activities. Develop funding sources, e.g. revolving loan funds or direct grant programs to help financially strapped fishermen pay for the costs of acquiring and using the gear that works.

8) Strengthen support for applied academic/industry research on gear development, aquaculture, new fishing techniques, ecological economics and social effects of industry collapse. Determine the potential impact of different transition strategies and assess to what extent fishermen are capable of cooperative activity.

9) Provide support for the testing of new alternative fishing techniques and strategies and gear. Focus on conservation engineering, specifically technological adjustments to reduce waste. Coordinate through the industry, and the industry should help pay the costs. Most fishermen publicly resist this concept, privately many have indicated they can and will support it—if they can be assured that control won't be

wrested away from them. This should be a partnership effort involving academics, industry, environmentalists, and regulators.

### *Market Development*

1) Examine the feasibility of developing individual display auctions or virtual auctions in Gloucester and New Bedford, and possibly other communities as well. Assess potential for a Regional Fish Exchange which would develop and link display auctions in Portland, Gloucester and New Bedford.

2) Explore feasibility of developing fishermen's co-ops in those communities that don't have them and strengthen co-ops in those ports which do.

3) Examine feasibility of developing a "sustainably harvested" Buy New England certification program, modelled after the forestry certification programs which are currently being developed for domestic and tropical wood products.

4) Explore creation of a regional fishermen's bank or Marine Resource Fund supported by a general or dedicated tax.

5) Examine feasibility of developing of economically viable fish waste processing businesses.

6) Provide seed funding for scoping and feasibility studies to assess the viability of developing new value-added products.

### *Policy/Politics*

1) Identify and provide support for a co-ordinated long term effort to change federal policy and fundamentally overhaul federal fisheries management programs.

2) Support efforts to integrate fisheries management into the priorities of the Gulf of Maine Council and the Collaboration of Community Foundations for the Gulf of Maine.

3) Support efforts to secure designation of the Georges Bank Marine Bio-sphere Reserve.

4) Support efforts to evaluate the degree of conflict of interest present in the New England and Mid-Atlantic Regional Fisheries Management Councils to improve the management process.

5) Underwrite production of a report on the Gulf of Maine bio-region and its resources, including the fishery, and sponsor a state of the Gulf of Maine Report focused on characteristics and trends.

### *Socio-Economic*

1) Explore the development of one or more regional Fishermen's Trusts either as separate stand-alone entities or offshoots of existing organizations to acquire facilities, marinas, dockage for communities to protect commercial fishermen's access to the waterfront.

2) Forge coordination and collaboration between environmental groups—Look at parallels with Pacific NW forests and Northeastern forests campaign. Develop an ongoing communication/information clearinghouse.

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### PREPARED STATEMENT OF GARY GOLAS, NEW BEDFORD, MA

Thank you Senator Kerry for inviting me to testify at this hearing. On behalf of the Seafood Industry here in New Bedford I would like to welcome you. I also would like to express our gratitude for all of your continued hard work in assisting this industry, particularly in these difficult times. Thank you.

My testimony will focus on the issue of economic aid to the fishing industry here in New Bedford. It's a program that all of us are grateful that you have worked so hard to establish.

As you may know, I have been directly involved in organizing lobbying efforts to get financial relief to this industry since January. Presently I also hold a position of recruiting unemployed fishermen to examine their options to get retrained into other jobs as administered by the city's job training agency New Directions. And I have been working with others to host informational workshops to help people better understand the financial aid options offered by the various federal agencies. It is through my direct involvement and experiences that I speak to you today.

Although it is too early to provide you with statistical information on how effective the \$30 million economic aid package may be in here in New Bedford, I would like to inform you of a number of areas of serious concern as well as areas of optimism.

The various financial aid packages offered to help those in need here in New Bedford appears to not be reaching its mark. As I testified to the Director of Sustainable Development, John Bullard during his second town meeting on May 12th, the dif-

difficulties and requirements associated with a number of the aid programs continue to leave a wake of frustration, confusion and anger along this waterfront.

People everywhere got a clear impression from Commerce Secretary Ron Brown in March that they will get \$30 million dollars to help them get out of the financial difficulties and Many people are finding that the programs have become outright difficult to land. Many have found that the federal agencies administering the programs have transformed what was to be simple programs to help those in need \* \* \* into bureaucratic, complicated nightmares, all administered by their own set of beliefs and policies.

Back in January when Mr. Bullard came to town to ask us about our problems and how can they be solved, we provided plenty of testimony.

- It included testimony on the need to refinance vessels because banks are looking for loan repayments or in some cases repossession and many shoreside owners need to get paid off.

- We provided testimony for the tremendous need to get some form of unemployment compensation and health coverage for those who have already been hurt by the fishing crisis and believe me, there are many.

- Testimony was given on the need to create a government sponsored vessel buy back program.

- We provided testimony on the need to retrain those who want to get out of the fishing trades and the associated needs to provide financial support while they go through their training.

- We provided testimony on the need to get government help in marketing other so called "less used" species of seafood to the domestic markets.

Lastly we provided testimony on the need to look at the vessel and P & I insurance issues that continue to rise while revenues shrink.

Sadly, I have to report to you that many people are finding that most of the aid programs as part of the \$30 million economic aid package are not easy to understand, not easy to land and some do not answer some pressing needs. Allow me to point out some issues and suggest ways in which you can help.

- Number One. There has been no offer of unemployment assistance or social support financing for those who have either run out of benefits or have never been entitled to them. We continue to be told that Washington will never pass such a measure. For those fishermen with health benefits, they are finding it harder to keep up with contributions to their health plans Many are dropping out of plans, making the contribution amounts higher and harder for others to maintain. I WOULD ENCOURAGE YOU TO DEVELOP FUNDING PROGRAMS TO EXTEND UNEMPLOYMENT ASSISTANCE TO THOSE IN NEED AND TO OFFSET THE RISING COSTS OF HEALTH PROGRAMS. They simply need to get by this transition in their lives.

- Number Two. The grant programs are well intentioned. I am speaking about the Northwest Atlantic Reinvestment Program as administered by the Wildlife Federation \* \* \* the newly developed Industry Grants program and the Kennedy/Saltonstall Grant program by NMFS. As much as it would be beneficial to get everyone to think about fishing for other species \* \* \* think about new products \* \* \* new machines \* \* \* think about raising your own fish \* \* \* most of this waterfront at this present time is looking to simply survive and get out the financial hole that they are in. And for the small percentage who are looking at these grants seriously, the research and documenting requirements are forcing them to consider going back to school for their doctorate degrees or hire academic assistance. It is a policy that is discouraging many from applying. I WOULD ENCOURAGE YOU TO DEVELOP REAL AND MEANINGFUL GRANT PROGRAMS WITHOUT REQUIREMENTS FOR EXTENSIVE DOCUMENTATION. What everyone doesn't need is more paperwork, just simple and true financial aid if you want them to look at new frontiers.

- Number Three. As well intentioned as the FOG program is (Fishing Vessel Obligation Guarantee program), this program appears to not be helping those in need. In fact it is having an opposite affect for what it is intended to do. People dealing with FOG are saying that FOG is attracting and approving loans for the vessel owners \* \* \* whom you can say are the cream of the crop and probably will survive this crisis no matter what. They have the good credit FOG requires to land the loans and like anyone else they wouldn't hesitate on getting a better financial deal. Unfortunately this is leaving local bank portfolios empty with many better industry loans going to FOG. Those involved in applying for these loans say FOG is simply mind boggling with extensive paperwork and credit requirements \* \* \* that the paperwork is very much overkill. I WOULD SUGGEST THAT YOU TAKE SOME ACTION TO LESSEN THE REQUIREMENTS OF FOG AND CONVINCE NMFS TO TAKE MUCH MORE RISKS AND CHANCES.

• Number Four. Probably the one and only economic aid program in which I am holding some hope for to aid the short term, needs of this industry is the EDA revolving loan program that is being administered by the New Bedford Corporation. Applications have recently been sent out to help those with working capital needs as well as the purchase of equipment. I do believe however that the \$2.6 million available here in New Bedford will be loaned out quickly and we will need much more. I WOULD ENCOURAGE YOU TO MAKE MORE FUNDS AVAILABLE WHEN THE TIME COMES AND IT COULD BE SOONER THAN WE THINK.

New Bedford fishermen who need some form of financial assistance will tell you, all they want to do is fish and pay their bills. Others simply need money to live and get new jobs. If you give them loans or grants without the difficulties attached to them, they will pay you back the loans and make good use of the grants. I am sure you will see that when they begin paying back the EDA loans. And if you give them support and social services and the necessary financing to get them through this crisis and transition in their lives, they will be very productive and contributing citizens once again. There are many serious needs in this industry and we need the money directly to ease the burdens \* \* \* not government red tape filled with extensive, mind boggling requirements.

Thank you for your considerations and for all of your help, Senator Kerry.

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PREPARED STATEMENT OF ROBERT K. GRIFFITH, JR., PH.D., CHIEF, OFFICE OF STRATEGIC PLANNING, RHODE ISLAND DEPARTMENT OF ADMINISTRATION

PROFILE OF RHODE ISLAND COMMERCIAL FISHERIES

Rhode Island's commercial fishing industry plays a significant role in both the state and the region's economy. In 1991, landings exceeded 139 million pounds and were valued at over \$85 million. This represents 21.6 percent of the New England catch although the value of these landings is only 14.3 percent of the region's total value. This difference is partially explained by the fact that much of Rhode Island's catch is in the so-called "underutilized species" and, as such does not demand as high a price as traditional species.

The impact of commercial fishing on Rhode Island's economy cannot be overstated. The Economic Development Section of the Division of Planning has estimated that commercial fishing activity in the state generates one of the highest multipliers of any industry—4.24. Applied to the value of the 1991 Rhode Island catch this yields a total value of over \$360 million. This translates into jobs not only in the wholesaling and processing sectors but throughout the economy.

In 1990 the Rhode Island Department of Economic Development recorded 223 "off-shore vessels" which employed 982 fishermen. An additional 691 workers employed in the processing and distribution of fish were recorded in 1991. It is estimated that another 4,000 are engaged either full or part time in the inshore fisheries.

Both the value and volume of landings were consistent or about the same in 1992 (see attached charts and graphs, Attachment A). The value of landings has increased modestly over the last five years while the volume has increased. This reflects the continued diversification to the nontraditional underutilized or "export" species.

POTENTIAL ECONOMIC DISLOCATION

The new federal restrictions on the harvesting of cod, flounder and haddock will have both a direct and an indirect impact on Rhode Island's commercial finfishing fleet. While many of the state's approximate 1,000 fishermen harvest these species, the strength of our fishing industry has become its ability to diversify its effort towards nontraditional species. This diversification has required substantial investment in gear and technology. Moreover, the processing of these species also has required investment in new techniques and equipment. Much of the state's processing capacity is threatened by its current inability to meet wastewater pretreatment requirements. The processing sector of the industry employs nearly 700 more individuals and supports activity in wholesaling and trucking.

Every indication is that the new restrictions on ground fish will foster increased competition for the so-called "underutilized species" by fleets from neighboring states. The result will be an industry comprised of both small and large businesses competing for a shrinking resource. Rather than a solution to the problem, the issue simply will be shifted geographically to the fisheries currently harvested by Rhode Island vessels.

## RHODE ISLAND COMMERCIAL FISHERIES ECONOMIC ADJUSTMENT STRATEGY

From the outset, Rhode Island has endeavored to coordinate and integrate its response to this situation. Following meetings with public and private sector representatives involved with the industry and after coordinating with our extensive University of Rhode Island research community and the entire congressional delegation we created a steering committee to assess the impact of the new restrictions on Rhode Island commercial fishermen and related industries and make recommendations to the governor on how best to proceed. I am staff director of that effort which is currently underway. The immediacy of the restrictions dictates a concerted focused effort that:

1. Identifies the threats and opportunities presented by the regulations and mitigation measures being considered by the federal government and neighboring states;
2. Identifies and evaluates the alternatives for responding to the threats and taking advantage of the opportunities locally and regionally; and
3. Sets forth an implementation plan that includes specific actions and related investment strategies.

Rhode Island's Commercial Fisheries Economic Adjustment Strategy effort is proceeding in two phases:

Phase I (4 months) Problem Analysis & Strategy Development. The steering committee, staffed by the division of planning will identify the local impacts of new federal restrictions on finfish harvesting and develop specific action plans to mitigate those impacts on both the Rhode Island commercial finfishing industry and their host communities by maximizing existing institutional resources and prioritizing requirements for additional resources. Governor Sundlun's Executive Order and a description of the work program of Phase I are attached (Attachment B may be found in the committee files).

Phase II (24 months) Strategy Implementation & Coordination. Professional staff will be devoted to sustaining the effort by coordinating existing resources, preparing grant applications to fill programmatic or financial-gaps in the action plan, providing technical assistance to communities in securing implementation resources, and establishing oversight and coordination capacity that builds on established linkages.

These planning and management activities are supported, in part, by a grant from the Economic Development Administration, USDOC. Simultaneously, the state applied for and recently received an EDA grant to its existing Small Business Loan Fund Corporation to create a Fisheries Revolving Loan Fund. The manager of that fund, working closely with the Steering Committee has developed application criteria and priorities (Attachment C may be found in the committee files) for the Fisheries RLF.

## INTERACTION WITH OTHER STATES AND FEDERAL AGENCIES

Since March, members of our steering committee and staff have been on the road visiting effected communities, experts in specific aspects of the issue, and with representatives of federal agencies (EDA and NMFS) to develop a fuller picture of the "Fisheries Crisis," how different communities perceive it and are responding or preparing to respond to it, and to understand and determine how best to participate in the development and implementation of the federal response on behalf of the Rhode Island commercial fishing and related industries. Frankly, we have found the effort an exercise in frustration.

Meaningful interaction with other states in the region has proved to be difficult until recently. Relevant agencies at the state government level have appropriately been busy responding to in-state constituencies and developing their own response. Recently representatives from five New England marine fishing states met in Gloucester, Massachusetts literally to make introductions and compare notes. But while all of us agreed on the need for some level of regional cooperation on the issue we remain at a loss to define it or the mechanism. We have, however, established a network.

In my opinion, the failure to articulate a regional response to the commercial fisheries issue to date stems, in part, from the nature of the federal response. The highly publicized announcement of emergency funding on the order of \$30 million to the region in March fostered expectations of immediately forthcoming aid. The frenzy that ensued had an every-man-for-himself aspect that inhibited collaboration or cooperation. At the same time, the town meetings organized up and down the coast by the Office of Sustainable Development and Intergovernmental Affairs, which were properly aimed at determining needs of effected fishing communities, effectively bypassed state governments and left them scrambling to keep informed. Indeed, the town meetings in Rhode Island were organized before we even knew of them. And once we notified OSDIA that the Office of Strategic Planning was head-

ing the state's response and should be treated as its point of contact we continued to learn of decisions and developments after the fact. Two examples:

We learned of the availability of loans under the Northeast Fisheries Assistance Program (NFAP) from Connecticut. When I called NMFS for information and loan applications I was informed that I could get them from our Fishing Families Assistance Center (FFAC). I protested that we did not have one, only to be told that we did and that the coordinator had recently been named. This was news to me.

Despite the fact that we had made repeated requests to review and comment on the forthcoming Northeastern Fishing Industry Grants (NFIG) Program and had received a bootleg copy of the prepublication draft of the announcement we did not learn of its publication from NMFS. Again, we learned of it from a third party. We did not receive the formal mailing from NMFS because we still were not on their mailing list three months, with several reminders in the interim, after we informed program managers that we were the state's point of contact on the Commercial Fisheries Initiative.

These are perhaps petty examples, but their occurrence, combined with other incidents, contribute to an impression that the state is not considered a full partner in the response.

#### CONCERNS WITH SPECIFIC ELEMENTS OF THE FEDERAL PROGRAM

##### *Lack of Vision, Objectives & Baseline Information*

Fundamentally, our concern with the federal program is that to date it has been announced and introduced in a piecemeal fashion and lacks a clear overarching vision or objectives. The so-called "visioning process" is barely underway. We do not have a clear picture of the impact of the restrictions on commercial fishermen and their allies in the seafood industry. We do not even have a good demographic and economic baseline on the industry from which to measure impact or the success or failure of assistance programs or mitigation measures. The requirement for such comprehensive information was the first short term need identified by Charles Collins in his paper "Beyond Denial," published last March. An attempt to develop a regional information base was abandoned; we have commissioned one for Rhode Island as part of our strategic assessment. However, it will be of limited use beyond our borders unless all parties in the region can come to an agreement on common terms and definitions associated with the industry. What is a "commercial fisherman"? How far on shore should we look when assessing impact?

##### *Unguided Emphasis on Aquaculture*

Nevertheless, caught up in the momentum generated by a crisis atmosphere we are forging ahead with loan and grant programs. To what end? Mr. Collins has written that "there are large uncertainties about the future competitiveness of aquaculture, particularly regarding the ability of U.S. growers to compete against foreign growers." In March he urged "considerably more extensive market research" to identify where additional effort in northeastern aquaculture should be focused. Has such research been accomplished? No. But both the loan guarantee program and the fishing industry grants program of the Northeast Fisheries Assistance Program are soliciting proposals by fishermen for aquaculture ventures.

##### *Counterproductive Emphasis on "Underutilized Species"*

Again, we caution against schemes aimed at shifting excess fishing capacity from groundfish to export species. As was noted in the East Coast Fisheries Federation's July newsletter, "The one frantic message during the 'town meetings,' and other public hearings during the spring was 'don't push the problem south.' The industry said it, the New England Council said it, the Mid-Atlantic Council said it. It was said in New Bedford, Point Judith, Riverhead, and Cape May. It was said to Commerce Secretary Ron Brown by the delegation led by Senator Pell."

Nevertheless, both the loan guarantee program and the fishing industry grants program of the Northeast Fisheries Assistance Program are soliciting proposals by fishermen and processors which would have the effect of shifting capacity to underutilized species. Furthermore, as we have previously indicated to NMFS, we are concerned that loans and grants to fishermen directly affected by Amendment 5 which support a shift of capacity to species not covered by Amendment 5 could result in subsidized fishermen having a competitive advantage over fishermen already harvesting such species. This would adversely affect the economic of unsubsidized fishermen and place yet another sector of the industry at risk.

##### *Need for Focus on Exit Strategies*

It is almost universally accepted that the northwest and mid-Atlantic groundfish fisheries are in crisis because of overfishing (at least in part) and that the

overfishing is an unintended consequence (again, in part) of federal programs that contributed to the overcapitalization of the commercial fishing fleets. It is also almost universally accepted that Amendment 5 restrictions alone will not result in a restoration of the groundfish fisheries. The issue of overcapitalization must be addressed squarely. Given this, it seems clear that the adjustment process must include measures to eliminate excess capacity (i.e. vessel buy back) at outset, not somewhere down the line. Even before the Secretary's announcement of the relief package, industry members were largely agreed on the need for a buy back. An industry group is working on the design of a bud back. An interim report is available from the East Coast Fisheries Federation now. Without a buy back, the problem will almost certainly be pushed south, exactly the fear of Rhode Island, as noted above.

However, a buy back program would finance exit strategies for some—hardly all—fishermen. More attention is needed to develop exit strategies for the larger (as yet indeterminable) number of hands idled by the restrictions and a buy back program. I am frustrated by glib talk about retraining fishermen and other industry workers, family members, etc., who will be dislocated by Amendment 5. We have the means to offer retraining under our dislocated worker programs. But the question remains, Retraining for what? This region is still wrestling with workforce retraining issues associated with the end of the Cold War.

#### *Family Assistance Centers*

At least in Rhode Island, and I speak here for my counterpart in Connecticut, there is confusion and frustration over the mobile Fishing Family Assistance Center (FFAC) approach which the NMFS has inaugurated and seems determined to continue in its present form despite repeated requests for reconsideration. The use of the term Family in conjunction with Assistance Center implies a range of services which NMFS does not and never intends to offer. In those areas where NMFS has established permanent centers they are colocated with state and local job training and service providers. This is not possible with the mobile center approach unless the NMFS FFAC Fisheries Specialist is colocated with local providers on those days when he/she is in state. We prefer a one-stop-shopping arrangement which is not possible if the NMFS FFAC Fisheries Specialist goes directly to a port. If the only individual a fisherman sees is the NMFS representative who has information and applications for federal assistance programs only, they may well miss connecting with the person they need to see regarding job training or family services. Conversely, family members seeking information and assistance are going to be disappointed, confused and discouraged if they seek family services at a mobile FFAC only to find they have made a trip to the wrong office.

We strongly believe that in the absence of a permanent facility that the current approach by which the FFAC coordinator visits local ports in four states attempting to reach fishermen directly serves to dissipate the resource. We envision as an alternative having the NMFS FFAC Fisheries Specialist work more directly with state and/or local employment & training agencies and human services providers. Under such an arrangement one state or local agency would be designate the primary point of contact for assistance to fishermen and their families. The NMFS Fisheries Specialist would provide information and training to local personnel who would disseminate information and receive applications for NMFS assistance when the coordinator is in another community. Thus the NMFS Fisheries Specialist would effectively become the federal liaison to the state or region served by the FFAC rather than just being an FFAC coordinator.

#### OTHER CHALLENGES FACING THE INDUSTRY

Finally, we are concerned that other federal initiatives underway may combine with the restrictions on groundfishing to overwhelm an industry already struggling to adapt to dynamic changes. Clean Water Act requirements on processors and the new Food and Drug Administration regulations due within the year will affect virtually every segment of the industry from harvesters through retailers. While the commercial fishing industry is hardly unique in having to respond to regulations from multiple sources its historic independence and lack of a well established central communications network makes it singularly susceptible to being overwhelmed by simultaneous demands for compliance. This situation underscores the need for close and continuing coordination between federal agencies and the federal government and state and local governments in all matters pertaining to the commercial fishing industry in the coming months.

#### SUMMARY & CONCLUSIONS

I have tried to make three major points in this presentation:



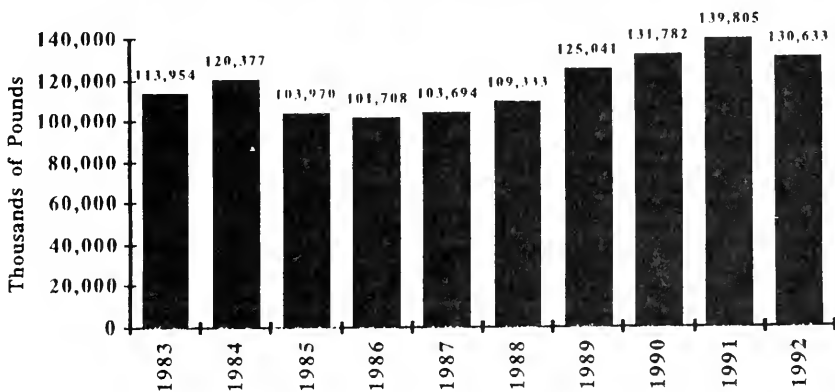
1. Coordination of the response to fishing industry issues at the state level and integration at the local level are crucial. The federal agencies involved in the response are all line agencies that provide specific services in accordance with statute. NMFS in its response does best what it is accustomed to doing. However, the overall response needs to be multifaceted. This can readily be accomplished at the state level. The NOAA led effort to date has not yet effectively incorporated this reality into its program.

2. The federal response to date does not adequately address the economic dynamics of overcapitalization. There is a dangerous overemphasis on underutilized species which risks lulling fishermen directly affected by Amendment 5 into believing that they will be able to replace value lost during efforts to restore groundfish stocks by shifting capacity. Exit strategies are inchoate. There is no vessel buy back program. Aquaculture, while it may have long range promise, offers little by way of immediate relief. Ironically, aquaculture could become productive precisely as groundfish stocks are restored posing a new dilemma for everyone.

3. Programs are more oriented toward and accessible to vessel owners and operators and the owners and operators of shore based activities; while insufficient attention has been given to meeting the needs of those with the least resources, crew members, shoreside employees, and their families. While reliable information on the demographics of the industry remain to be developed, it is entirely probable that 70 percent of people needing assistance are outside the owner/operator category.

On behalf of the many Rhode Islanders involved in this process I urge the committee to take the above matters into consideration as it reviews and refines the federal response to the Northeast fisheries crisis.

ATTACHMENT A—RHODE ISLAND FISH LANDINGS IN POUNDS

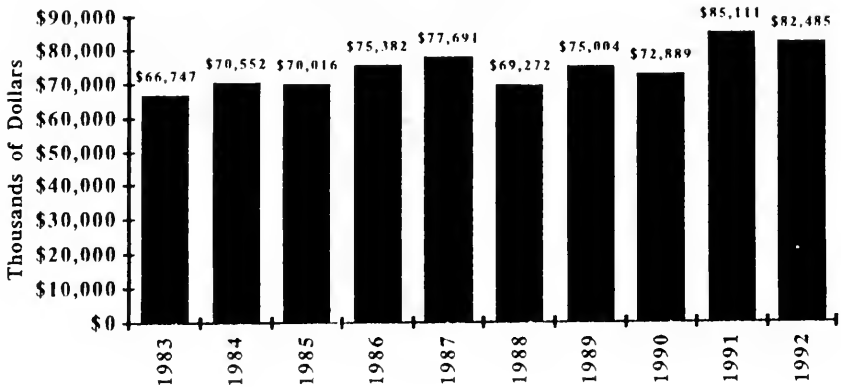


Rhode Island Fish Landings

[In 1,000 pounds]

	1985	1986	1987	1988	1989	1990	1991	1992
Squid .....	9,846	13,957	9,724	19,330	31,572	27,250	37,311	42,652
Whiting .....	13,282	12,517	13,327	13,570	14,696	18,169	16,103	18,158
Mackerel .....	1,291	590	814	2,542	6,989	10,517	13,581	14,121
Lobster .....	5,140	5,513	5,317	4,859	5,727	7,146	7,445	6,805
Angler .....	1,196	944	2,103	2,480	3,279	3,475	6,651	7,723
Yellowtail .....	2,902	3,858	1,704	1,132	1,556	4,795	2,984	1,063
Scup .....	7,900	6,586	4,767	6,244	3,043	3,938	6,397	5,900
Cod .....	4,842	2,284	2,011	2,932	3,330	3,653	3,830	2,082
Butterfish .....	7,364	6,712	7,809	2,944	4,300	3,171	3,363	4,352
Quohogs (meats) .....	4,203	3,603	3,349	2,480	2,538	2,516	6,651	2,460
Blackback (Winter Flounder) ..	6,286	4,191	3,829	2,623	2,384	1,753	1,826	1,848
Fluke (Summer Flounder) .....	7,533	7,044	4,774	4,719	3,066	1,409	1,672	2,531
Unclassified fish .....	32,185	33,909	44,166	43,120	42,561	43,720	35,671	31,960
Total .....	103,970	101,708	103,694	109,333	125,041	131,782	139,805	141,655

## RHODE ISLAND FISH LANDINGS IN DOLLARS



## Rhode Island Fish Landings

(In thousands of dollars)

	1985	1986	1987	1988	1989	1990	1991	1992
Squid .....	\$2,891	\$4,611	\$3,930	\$7,613	\$12,524	\$9,243	\$15,166	\$18,562
Whiting .....	2,360	2,486	4,112	2,744	2,319	3,645	3,881	3,914
Mackerel .....	221	137	92	409	1,552	2,041	2,599	2,603
Lobster .....	14,714	16,217	17,828	15,569	17,930	19,491	20,373	21,364
Angler .....	923	1,130	1,427	1,622	1,757	2,222	5,829	5,228
Yellowtail .....	2,347	3,117	2,011	1,223	1,507	3,909	2,827	1,131
Scup .....	5,041	3,615	2,865	4,017	2,488	2,075	2,914	3,263
Cod .....	1,906	1,216	1,350	1,557	1,898	2,258	2,891	1,661
Butterfish .....	2,475	4,690	5,282	2,197	2,422	1,749	2,041	2,597
Quohogs (meats) .....	15,011	15,705	15,628	14,464	13,799	12,184	13,739	10,986
Blackback (Winter Flounder) ..	4,150	3,068	3,502	2,307	2,263	1,529	1,710	1,723
Fluke (Summer Flounder) .....	7,855	9,085	7,763	7,006	5,272	3,155	3,120	4,266
Unclassified fish .....	10,129	10,012	11,627	8,544	9,673	9,388	8,021	8,383
Total .....	70,016	73,382	77,691	69,272	75,004	72,889	85,111	85,681

[Attachments B and C may be found in the committee files.]

## PREPARED STATEMENT OF GAIL L. JOHNSON, MAINE FISHERMEN'S WIVES ASSOCIATION

I am Gail Johnson and I thank you for providing an opportunity to speak on the New England and national fisheries issues. I have been active in the fisheries in different ways since the 1960s. I am a founding member of the Maine Fishermen's Wives Association and Blue Water Fishermen's Association.

At present our vessel winter-fishes for groundfish in the Gulf of Maine and in the continental shelf canyons with hook/cable gear. From about May to December we fish off the Grand Banks of Newfoundland for swordfish, tunas and other species using pelagic longline gear.

My goal is to have a viable fishery that allows a great number of people to gain employment, allows a healthy marine biomass, and provides a product to the nation at a reasonable price.

We need to be reminded of the basic wisdom of the Magnuson Act's precepts. The fisheries have changed since the Act's implementation, but the basic principles remain the same. In my opinion, they are:

- 1) dividing the nation's fisheries into separate areas of management that recognize the very different issues, socio-economic needs, and environmental systems of those areas.
- 2) understanding that the populations of fish stocks exist in a continuous state of flux. They are neither up nor down all at once. Nature not only abhors vacuums,

she does not allow them. As one stock declines, another increases to take its place. I note that human populations are among the fastest increasing, along with appetite and need for seafood.

3) recognizing that aside from intrinsic value, the value of fish is food. This is the basis of a great deal of national economic activity, encompassing the commercial fisheries that provide it to the general public and also sportfishing individuals and industry.

4) recognizing that fishing is the social and economic basis of many coastal communities.

5) understanding that management decisions must include carefully considered projections, both long-term and short-term, of how those decisions will affect these stocks, individuals, groups, and communities. Obviously, fishermen and fishing villages can't exist without fish, but neither can they exist after their social bases, tax structures and other infrastructures have been destroyed by management measures.

The proposed amendments to the Magnuson Act seem to act as bywords of disenfranchisement to the people who are most affected by the health of the fisheries—the fishermen. Many of the proposals seem directed toward large corporate entities or their representatives and leave the individuals who embody the majority of the harvesters feeling categorized as cheats, scoundrels and profligates of our natural resources. To the contrary, many Maine fishermen are also our towns' selectmen, Little League coaches, planning board members, conservation group members, and so on. Our ethos is different.

Addressing Magnuson issues, please remember that fishery management is an inexact art affecting an inexact science. I doubt that fisheries will ever be manageable for sustainability the way forests or rangelands may be. Fish can't be enumerated and for the foreseeable future the ecosystem holds too many variables that are understood poorly or not at all. Each area needs an understanding of what it wants from the fisheries: Greatest employment? Highest efficiency? (whatever "efficiency" means) Zero discards? Seeing the means necessary to achieve these ends may prove unjustifiably costly in more ways than money.

The proposals addressing conflict of interest presume that only commercial fishermen might have one. But: Environmental groups receive the most funding when there is a burning fisheries issue. Sportfishermen have an agenda different from producing food products for the public. The Administration's proposal would preclude a member with a financial interest from even participating in a decision. It's possible there would be no one able to discuss the matter on several species of interest to many different-groups represented on the councils. Has everyone forgotten? The councils were created to allow the various user and interest groups an opportunity to discuss and debate all sides of the issues!

A viable New England fishery has been obfuscated by the direction of Amendment 5 to the Groundfish Plan and by the Scallop Plan's Amendment 4. Industry members can't shift to another fishery because nearly all have controlled entry dates. Safety is compromised by management that has "opportunity days," all of which can't be used unless the fisherman is willing to go in all kinds of weather. There is no incentive to leave the groundfish or scallop fishery because the vessel now has an entitlement, whatever that may mean in the future. A young fisherman from my town, seeing that he hadn't enough "days at sea" to provide support for his family, borrowed \$20,000.00 and took his boat to Rhode Island to try a different fishery. All his assets are tied to his vessel and because we know the market for groundfish vessels at present is not good, he cannot escape the fisheries financially alive. When he went to Rhode Island, he left his family back in Maine. Once there, he found that even if he did manage to catch this product, there is control date that would preclude his remaining in that fishery when its FMP is developed and implemented. Missing his family and home and severely discouraged, he returned to Maine.

A member of the Mid-Atlantic Council has made a motion that is intriguing, requesting through Magnuson that the councils be allowed to set a control date for any and all fisheries in an area encompassing Maine to Cape Hatteras before a plan is developed. However, if that happens, it should include all who use the resource commercially; that is, include party and charter vessels, and it should work toward including all users eventually. This would get a better estimate of the number of participants and of the total removals.

I think the Magnuson Act needs minor changes only in the area of Highly Migratory Species.

In 1990, Congress recognized that Atlantic highly migratory species including swordfish, tunas and sharks were harvested heavily by many nations in the same areas where U.S. vessels fished. Because one nation's unilateral restriction could encourage greater harvest by the others, Congress moved oversight of highly migratory species to the Secretary of Commerce. Recommendations for management of

these species comes from the International Commission for the Conservation of Atlantic Tunas (ICCAT). National Marine Fisheries Service implements these recommendations after acceptance by all the members.

One of ICCAT's 1990 recommendations was to reduce the fishing mortality level of swordfish by reducing the major harvesters' landings of fish over 25 kg by 15 percent. National Marine Fisheries Service has considered this recommendation not to be a quota and has inferred that the U.S. may restrict her fishermen by not providing a "reasonable opportunity to fish" contrary to what Magnuson stipulates and may "have the effect of increasing or decreasing a quota", contrary to what the Atlantic Tunas Convention Act stipulates. We ask that the word "quota" be changed to "fishing mortality rate" to retain the intent of the recommendations.

Because the management process directly under the Secretary is truncated, we ask that an advisory panel similar to the councils' PDTs should be instituted and that similarly, it be exempted from FACA. The makeup of the panel should be drawn from the ICCAT Advisory Panel. This panel and the working groups established under the ATCA includes council representatives, environmental groups and academics. This would help to address the lack of direct input during development of issues and options. The fishery management councils properly have a consultative role in the management of highly migratory, but they should not constitute the majority of the panel's membership.

For the same reason that the Secretary oversees highly migratory, the states should not have extended territorial jurisdiction over them. States' authority ends at three miles. However, the states should be required to institute consistent management programs for FMP species so that their loopholes do not allow state vessels to avoid management of regulated species.

Many of the other nations fishing for swordfish have increased their level of take, contrary to ICCAT recommendations and negating the 500 to 600 MT per year rebuilding process. (ICCAT SCRS 1992 swordfish assessment) Some of these nations or entities in the Caribbean are increasing their effort with the help of U.S. government aid dollars, adding insult to injury. We must have comparable international enforcement ATCA provides a mechanism to "encourage" all the entities who ship into the U.S. market and greatly affect demand and prices, to comply with the recommendations. The United States should not underwrite efforts contrary to ATCA recommendations.

I urge you to remember why Magnuson was created. It has achieved its objective of Americanizing the fisheries. Fish are not trees and they don't grow on observable acres. Fishermen have about the same percentage of scowflaws as any other segment of society and don't deserve the bad rap now any more than the romantic pap of a generation ago. They do deserve honest, earnest representation on the councils. They deserve goals that are attainable over a term long enough to assure the continued existence of many of the individuals and the coastal communities who depend upon them.

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#### PREPARED STATEMENT OF FRANK MIRARCHI, COMMERCIAL FISHERMAN

Good morning Mr. Chairman. My name is Frank Mirarchi. I reside at 67 Creelman Drive, Scituate, MA 02066. I am employed as a commercial fisherman, having fished from the port of Scituate, Massachusetts continuously since 1963. Presently I am owner/captain of the F/V Christopher Andrew a 62 foot stern dragger.

Before beginning let me emphasize that the thoughts presented in this testimony are solely my own. In no way should they be construed to portray positions of the New England Fishery Management Council where I continue to serve as a member until August 10, 1994. The NEFMC has already provided the Congress with its opinion on issues surrounding MFCMA reauthorization. I was a participant in all debates and votes leading to the Councils formal position on this matter. I continue to stand in support of all New England Council positions taken in regard to MFCMA reauthorization.

Let me first thank you for this opportunity to testify. Fishing is very important to me. It is more than just a job; it is a career that I continue to pursue with a passion.

Fishing transcends driving a boat and catching fish. It involves understanding the population dynamics of living resources, the interdependence of species within an ecosystem and the relationship of resource productivity to habitat quality. It involves balancing the socioeconomic expectations of harvesters with the constraints of sustainable harvest rates. Perhaps most fundamentally it involves human behavior—the ability of communities and nations alike to agree upon and conform to

standards of behavior which will guarantee a continuing and sustainable flow of benefits.

I realize that presently it is not fashionable to defend fishery management in general and the Magnuson Act in particular. Phrases like "strip mining the sea" and "foxes guarding the henhouse" convey the cynicism of the critics all too well. Yet fishery management has not all been futile. I cite as an example of success the spectacular recovery of the striped bass. Through a decade of sacrifice and expense we restored habitat and cut fishing mortality. This did not happen spontaneously. It took the leadership of political institutions (the U.S. Congress, the ASMFC, and the affected states) and the dedication of the fishing communities to agree to a course of action, to spend the money and to endure the sacrifices of forgone revenue and recreation, to make it happen.

I firmly believe that this success can be replicated in other fisheries. I further believe that the fishery councils are the forum in which the appropriate courses of action can be promulgated.

Unfortunately the councils are at present seriously encumbered. In addition, at least in New England, the displacement of excess fishing capacity from the scallop and groundfish fisheries is threatening a cascade effect into other areas. The groundfish crisis could soon become a dogfish, monkfish, or squid crisis unless proactive steps are taken.

To facilitate a timely, credible and goal effective conservation program I recommend that Congress seriously consider the following points:

1. Streamline the fishery management plan development process.

Rationale: In delegating management authority to the RFMC's Congress and the Department of Commerce have maintained accountability to the public interest by insisting that numerous social, economic, and legal consistency analyses accompany each draft FMP or plan amendment. The result is that the pendulum has swung too far from timely conservation decisions toward process. A better balance must be struck.

2. Require an objective and quantifiable overfishing definition for all important stocks/species.

Rationale: Presently overfishing definitions are required only for species governed by a fishery management plan. Once a stock is overfished managers find themselves on a slippery slope having to either mandate restrictions to an economically stressed industry or to temporize while conditions further deteriorate. This indecision, not the greed of rapacious commercial fishermen, is what allowed New England groundfish to degenerate to its deplorable current status. Overfishing is a line which should never be crossed. To avoid crossing it we must first know its location.

3. Allow incremental management.

Rationale: Present NOAA guidelines require comprehensive management programs. Within any program are elements of varying complexity and controversiality. It is far more effective to implement elements which enjoy broad support and derive their benefit while debate continues in other areas.

4. Do not encumber the Council process with excessive conflict precautions.

Rationale: The popular notion that the councils are packed with fishermen who are enriching themselves at the public's and resources expense is a fallacy. Proposals that would disenfranchise fishermen from debate and vote on any matter where there could be a remote taint of conflict would cause substantial harm to the council process. Not only would the colloquy be bereft of its most experienced voices but also the fishing communities' confidence in the outcome decision would be undermined.

As an alternative, I would recommend broader representation by non-fishing groups such as environmental and public interest organizations.

As a final point, one which is not germane to Magnuson issues but is within the scope of this hearing, I would like to comment on the ongoing emergency assistance programs being provided by the federal government to the Northeast fishing industry.

The impact of the groundfish and scallop crisis is probably equivalent to that of other natural disasters. However, this situation differs in that we knew that it was coming yet failed to take decisive action. The assistance programs now underway are appropriate as agents of social and economic justice but they should not be seen as a comprehensive remedy to overfishing. There are simply too many boats and too much capital in the New England area to be completely absorbed by any diversification program.

In addition, any continued use of public funds to sustain excess fishing capacity becomes an operating subsidy which I fear will quickly erode the values of self-reliance, entrepreneurship and work ethic which characterize the fishing communities.

Finally, economic assistance is a partial solution. Once individual economic crises are stabilized many fishermen may decide that their future lies elsewhere. A one-time, voluntary vessel (or fishing rights) buy-back program will allow this choice to be made with one's dignity and economic well being intact.

These times are fraught with unprecedented turmoil and uncertainty. At such times institutions which embody community values become beacons of stability. I believe it is imperative that the fishery management councils retain the confidence of those who must sacrifice to restore the productivity of our fisheries so that the necessary changes can be accomplished.

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PREPARED STATEMENT PETER SHELLEY, MARINE RESOURCES PROJECT DIRECTOR,  
CONSERVATION LAW FOUNDATION

Good morning, Senator Kerry and members of the Senate Committee on Commerce, Science, and Transportation. My name is Peter Shelley. I'm the Marine Resources Project Director for the, Conservation Law Foundation, Inc. ("CLF") on whose behalf I am appearing today. CLF is a regional environmental and resource advocacy group headquartered in Boston, Massachusetts. We have approximately 7,000 members, the majority of which are Massachusetts residents.

Over our 27-year history, CLF, has worked on numerous marine resource problems in the Gulf of Maine, from oil and gas development proposals on Georges Bank to habitat protection along the New England coast, and from municipal wastewater pollution poisoning our estuaries to efforts to preserve commercial fishing rights and access to the sea in Massachusetts ports that were rapidly being converted from commercial waterfronts to condominium developments. For the past five years, we have been deeply involved in the problem of fisheries management in New England.

As this Committee well knows, there are no easy answers to the management crises confronting this region and most other regions in this country that have established fishery industries. Moreover, our experience over the past five years has led CLF to a number of conclusions about fisheries management in the United States which we would like to share with this Committee as it considers its task of reauthorizing the Magnuson Fisheries Conservation and Management Act of 1976 ("Magnuson Act").

First, and so obvious it barely merits stating, the context in which these reauthorization proceedings occur is profoundly disturbing: after almost twenty years of exclusive control over our coastal fisheries resources, many stocks are at the lowest levels they have ever been. Many of this country's key fisheries—key in both an ecological and economic sense—are overharvested and the rates of overharvest continue largely unabated. The National Marine Fisheries Service ("NMFS") admits that over one-third of this country's marine fisheries are already heavily overutilized, while the status of many of the remaining stocks is either unknown or fully utilized. Some stocks in New England which once formed part of the mainstays of our commercial landings, like haddock, have joined the ranks with halibut and redfish as "former" commercial stocks, and are now beyond management for all practical purposes.

Estimates of direct economic losses associated with this management failure are measured in the billions of dollars of lost revenues nationally and in the hundreds of millions of dollars in New England. The ecological and management costs of attempting to restore some of these stocks to their natural stock biomass are impossible to measure. The social costs for fishing families and the communities in which they live are equally incalculable and devastating. Families are ripping themselves apart trying to make ends meet under the current climate of diminishing catches and high debt and the stress of that way of life, while the financial health of small businesses that provide goods and services to fishing families is severely threatened.

The New England Fisheries Management Council in recent years has been attempting to alter events; but the appropriate remedies are so draconian, and the lack of coordination and effective partnership between the Council, the fishing fleet, and NMFS scientists seems so profound that the minimum medicine that needs to be taken in reducing fishing mortality is possibility beyond our political capacity. Current estimates of stock sizes suggest that the only prudent management response from a biological perspective would be to close all groundfish fisheries for the indefinite future.

Second, the Magnuson Act needs to be changed, in some areas fundamentally. The Magnuson Act asserted exclusive economic jurisdiction over a multitude of living resources in the United States' coastal territories. That jurisdiction comes with a profound trust and stewardship obligation not only to the people of the United States, but also to the members of the international community. We have failed that trust.

We have also failed the trust of future generations who will not have the access to plentiful and healthy fish stocks that we had.

CLF is part of the Marine Fish Conservation Network, a consortium of groups representing millions of citizens in this country formed to state loudly and clearly for all to hear that the United States is failing its mission as trustee of our fisheries, and to focus public and political attention on the tragedy that is contemporary fisheries management in this country. In the 1960's, we had Soviet factory ships to blame for the intense fishing pressure that devastated haddock and herring stocks on Georges Bank. In the 1990's, we have only ourselves to blame. It is time to get serious about managing fisheries for the long-term in this country and Congress holds the critical key to change in these reauthorization proceedings.

The Network supports the provisions of HR 4404, the Marine Fish Conservation Amendments of 1994, recently introduced by Rep. Wayne T. Gilchrest (R-MD), which go far in their attempt to address a number of the key shortcomings of the current Magnuson Act. The Network would like to highlight the following provisions of HR 4404 for the Senate's deliberations:

- HR 4404 prohibits overfishing and requires rebuilding plans to be developed for any stock that is currently overfished. As obvious as it might seem to an outside observer that overfishing is wrong, councils and NMFS continue to over-emphasize political and social considerations to the long-term detriment of the health of the stock biomass. Thought should be given to raising the stakes with respect to this issue by removing council jurisdiction for any stock that is overfished. The Senate must speak strongly and unequivocally on this issue.

- HR 4404 recognizes for the first time the critical importance of habitat protection in the long term vitality of this nation's fish resources and gives the implementing agencies some authority to protect essential habitat from destruction. NMFS should have veto power over activities that destroy or degrade the habitats of our marine fish resources. Along the same lines, language needs to be included that mandates NMFS and the councils to evaluate the impact of mobile and fixed fishing gear on subtidal habitat.

- HR 4404 focuses on the horrendous problem of bycatch and discarding of fish and marine mammals. Agenda 21, the blueprint that emerged from the Environmental Summit at the UN Conference on Environment and Development, includes language urging fishing nations to "promote the development and use of selective gear and practices that minimize the waste of catch of target species and minimize bycatch of non-target species." US fishery management law needs specific language implementing this international commitment. CLF knows of no other resource-based industry that wastes as much of its resource during the harvesting process as the fishing industry. Moreover, fishermen are powerless to effect these changes. High bycatch and discards are a research, technology, and management failure that must be addressed. By way of comparison, we are informed that in many of the fishery management plans in Canada, discarding fish is strictly prohibited; all fish caught must be landed. Landing data on juveniles and non-target species is used by Canadian scientists to immediately close areas that need protection.

- HR 4404 reforms the council and agency process in ways that will promote the development of effective and appropriate management plans. Members of the Network continue to be committed to a council system as a regional management tool, but the current form is not working and structural changes are needed. Representation of the broader public interest needs to be built into council membership in order to reflect the broader trust obligations established by the Magnuson Act. Moreover, financial conflict-of-interest questions must be faced and satisfactorily addressed in this reauthorization.

- HR 4404 repeals the provisions of the Fishery Conservation Amendments of 1990 (and associated language in the Atlantic Tunas Convention Act) which limit council authority over highly migratory species to the implementation of international recommendations, which are often weaker than councils might otherwise deem appropriate. Secretarial jurisdiction over these species has not improved their management, has eroded public confidence and access to the process, and has reduced public accountability of the fisheries managers.

- HR 4404 introduces a fee system to help redress the chronic and irresponsible underfunding of fisheries management in this country. Councils, NMFS fisheries centers, NMFS administrative and enforcement staff, and the Coast Guard are simply incapable of performing the tasks necessary to manage marine fisheries for lack of funds. This funding gap has been pointed out time and time again to Congress to no avail. For example, Amendment 5 to the New England Multispecies Groundfish Management Plan requires the New England region to administer a groundfish management plan that is at least an order of magnitude more complex than its predecessor. Yet funding levels for the region have remained the same despite the

repeated promises by senior NMFS officials that adequate funding would be available to administer and enforce this complex program. The success and efficacy of a fisheries management plan—like any terrestrial resource management plan—is a function of good science, data collection and management capability, administrative and enforcement resources, and education. Without these resources, plans are a meaningless joke on everyone.

Speaking to the Committee now only as CLF and not a member of the Network, I would like to focus on two issues that the Network has not resolved that seem critical, to us as far as resolving some of this region's persistent management problems.

One of the major deficiencies of the Magnuson Act is that it only requires management after data has been developed proving that a fishery is in need of conservation and management. That stage is too late for effective management. Not only have the fish stocks already been reduced, but an entire fishing sector has developed around that species that will inevitably be resistant to effort restrictions or mortality reductions. Councils and NMFS have to be charged to develop some broad management framework for all fish species within their jurisdiction, regardless of whether they are mature fisheries, developmental fisheries, or unutilized fisheries. Again, Canada seems to be ahead of the United States in this area and we are informed that a conservation plan has to be approved before any new fishery is prosecuted. Somehow, the cycle of endless catchup must be broken if the country is to witness rational management in the coastal zone.

Second, something must be done to, control access to marine fisheries, which represents the number-one policy demon in fisheries management in this region. Open, uncontrolled access to resources is a formula for ecological, economic and social ruin, a downward spiral on which we in New England now find ourselves. This is not an open theoretical question; it is axiomatic that open access resources are overutilized.

Much of the political volatility around this issue in New England has emerged as a result of the intensive, external promotion of individual transferrable quotas ("ITQ's") by NMFS over the past several years. ITQ's have been characterized by some as an almost magical market-driven route to sound resource utilization.

In fact, it is probably too early to tell whether ITQ's work to produce a conservation benefit, even though they certainly seem to work well to consolidate fishing rights in a few individuals or corporations if improperly designed. The fishing communities of this country are well advised to be suspicious of the so-called benefits of ITQs, which all too often seem to come at the expense of community values and traditions.

But ITQs are not the only form of controlled access. Any number of schemes that have the effect of restricting entry can be developed. CLF believes that we must face this policy demon if our fisheries are to have a serious chance in the future without the repeated boom-and-bust cycles that have plagued this industry for centuries.

While councils may be the best venues for this discussion, we are now convinced that this discussion will occur at that level only if there is a credible threat that such a closed system can be externally imposed on a regional fishery. The only way to do that is to remove the restriction<sup>1</sup> in the Magnuson Act on the Secretary of Commerce's ability to establish a limited access system without council approval where the record indicates that the relevant council has failed to achieve the conservation and management objectives of the act on its own. These marine resources belong to the public at large and the Secretary of Commerce has to have the ability to act aggressively and economically rationally where the councils fall short.

As we have already mentioned, such a statutory change could have profound and unintended social and economic consequences without necessarily producing any biological benefit. It must be considered carefully, but we believe that limited access must be mandated under appropriate circumstances.

On behalf of CLF and the other members of the Marine Fish Conservation Network, I want to thank you for this opportunity to testify to your committee.<sup>2</sup> I would so like to acknowledge and thank you, Senator Kerry, for the strong position you seem prepared to take in these proceedings. The fisheries, of this country and the communities that depend on the health and vitality of those fisheries need that leadership now, perhaps, more than any other time in the history of federal fisheries management in this country. The Marine Fish Conservation Network will continue

<sup>1</sup> Section 304(c)(3).

<sup>2</sup> CLF would also like to commend to the Committee's attention the excellent legislative briefing statement prepared by the American Fisheries Society on Magnuson Act reauthorization, a statement which makes many of the same points we have in this testimony.



to work intensively on this issue in the coming months and stands ready to help this Committee in any way we can.

Thank you again.

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#### PREPARED STATEMENT OF MARK SIMONITSCH, FISH WEIRS, INC.

To solve the New England groundfish problem: Are we prepared:

- to close George's Bank for three years, on both sides of the Hague Line, to draggers and sea scallopers.
- to assign mandatory observers to collect data for fifty percent of the vessel's days at sea in exchange for fuel payments for those trips.
- to provide fisheries science education for commercial fishermen to make them equal partners in the recovery process.
- to develop hatchery and release programs, initially for Codfish, to further our understanding of the biology and behavior of commercially important species and to rebuild their numbers.
- to construct a world class gear technology center to determine the overall impact of various gear types on habitat and fishing mortality.
- to increase National Marine Fisheries Service funding and staff and to insure that NOAA distributes funds to NMFS as Congress desires.
- to establish sanctuary zones in which all forms of bottom gear are prohibited-managing reproductive habitat is fundamental to solving the problem.

We cannot have a fishing industry for future generations without fish.

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#### PREPARED STATEMENT OF BRUCE E. TARR, MASSACHUSETTS HOUSE OF REPRESENTATIVES

Mr. Chairman, Senator Kerry, thank you for the opportunity to share with you this morning my thoughts relative to the reauthorization of the Magnuson Fishery Conservation and Management Act.

I am State Representative Bruce Tarr, and I am also the President of Gloucester United, a community-based organization to revitalize the economy of the City of Gloucester. Presently, our more than 200 Members are focused on the fishing industry, although our ranks include retailers, attorneys, insurance professionals and people from nearly all walks of life. We have united around the fishing industry because of its economic, social and cultural importance to the City of Gloucester and the Commonwealth of Massachusetts.

The opportunity you afford me today comes at a pivotal time for the future of fishing as an economic force and a way of life in Gloucester and Massachusetts. Reauthorization of the Magnuson Act presents us all with a chance to review fisheries management practices in our Nation. Doing so will allow us to approach the next century with a statutory framework for a transition to prosperity in our fisheries.

Reaching that goal will necessarily mean bringing together the expertise of those in the academic field with the invaluable practical experience of those who harvest our precious fisheries resources and those who process them into an essential protein resource for our country and our world. Critical to the inclusion of these components is public participation.

I can conceive of no better means for soliciting participation than our Regional Management Councils. Although they may at times be criticized, the Councils reflect the essence of our democracy. Through their work the views of the public are solicited, assimilated and reviewed in representative fashion. Just as our federal and state governments rely on representative democracy to secure the basic rights and privileges of our society, so should we also guard our precious fisheries resources with democratic vigilance.

A true democracy accepts all participants, without separation by category. Similarly, we should avoid unnecessary categorization of council members. Consider, for example, those who would argue that Regional Councils should have an increased number of members with environmental or conservationist concerns. These are terms which describe our seafood harvesters and processors, and are therefore redundant. Fishermen, concerned with their future and that of their children, have conservation in today's list of priorities.

Preserving the strength and effectiveness of the councils means also preserving their integrity by limiting the extent of intervention by the Secretary of Commerce and other bureaucratic officials. Certainly the Secretary and others have a role to play. Yet, overruling or contravening the councils frequently will lead only to a weakening of the process and continued mistrust in the present and future federal management schemes.

Adequate council activity, with public participation, will pave the way for the framework to which I have referred. Such a framework will provide the means to flexibly preserve and rebuild the stocks while balancing economic and environmental concerns. Properly framed, it will also require the federal government to recognize, in real terms, its obligation to support conservation plans with financial resources.

Finally, we are quickly approaching the point when a consensus and vision must be reached for the future of our fisheries and the commercial enterprises which they support. Through a comprehensive vision process our ports can develop specific products and markets to maximize optimum utilization of species and minimize duplication.

Several months ago this process began in Gloucester with a Harbor Conference which I sponsored along with twenty other members of our community. Using a total quality format, that planning committee oriented participants to the process from each waterfront user group. The result was an enormously successful conference with more than 280 participants. Three hundred cooperative ideas for conservation and development were put into a database and are being catalogued for future use.

I continue to believe that this process, or a similar effort, must be undertaken pursuant to the Magnuson Act by the federal government. Each port should be empowered to resolve conflict, reach consensus, and be prepared to take its rightful place in this framework for transition.

#### REGULATORY RECOMMENDATIONS

##### *Regional Councils*

Many recommendations relating to the Magnuson Act reauthorization appear to be intent on preserving strong Regional Councils, and they are appropriate. Maintaining an open, representative process is the only way to ensure fishery management plans which are comprehensive and respected by those who will be regulated.

Along these lines, modifications to prohibit conflicts of interest are in order. Caution must be used, however, in defining when these conflicts occur. Eliminating members who earn their living (directly or indirectly) from the sea would strip the council of its credibility and effectiveness.

There is a particular danger in seeking to exclude such persons in order to increase the number of knowledgeable but uninterested persons on the councils. Active involvement in a fishery is not necessarily a disability. Rather, it is evidence of commitment to its future.

Council participation and membership should be open to as many parties as possible, but without seeking in advance to, wittingly or unwittingly, promote a particular agenda.

Moreover, the reauthorization of the Act should leave the councils poised to consider the entire environment in which regulations are undertaken. Beyond retaining requirements that socio-economic impact studies be conducted prior to adoption of amendments, a reauthorized Act should also cause the councils to make specific recommendations as to the resources necessary to enforce new regulations and mitigate socio-economic damage to communities impacted by these regulations.

This holistic approach will give council members a greater sense of the practicability of new regulations, and should allow them to communicate directly to the Secretary of Commerce the financial ingredients for success to any new plan.

##### *Secretarial Actions*

Intervention into the workings of the regional councils by governmental agencies and the Secretary of Commerce should be minimized. When present, intervention leads to a compromising of the councils authority and diminishes the democratic process which is critical to moving forward in our fisheries.

Specifically, the suggestion of "interim measures" which would extend for a period of up to one year unnecessarily removes the public from the regulatory process. This would amount to no more than an emergency action for a 365 day period.

Perhaps a more reasonable approach would be a 100-120 single emergency action period, to be followed by a public hearing.

Increasing secretarial involvement with regard to preservation of habitat is a sound concept. Critical to the rebuilding of depleted stocks is the preservation and enhancement of habitat.

Such a change to Magnuson should also serve to focus attention on habitat and pollution, rather than merely on the expedient of overfishing. In turn, the Secretary should be given power to issue recommendations relative to expenditures necessary to habitat preservation by such entities as the Secretary of the Interior.

### *Fees & Taxes*

Any increase in fees or taxes upon the seafood harvesting industry should be flatly rejected. Currently, the industry has been promised some \$30 million in financial assistance to be invested in economic transition and diversification.

When the seafood industry finds itself in this critical time of diminished cash flows, significant indebtedness and the need for renewed investment, taxation or the removal of financial resources is completely counter-productive.

In fact, such action may well cause the exacerbation of the losses in gainful employment which have been caused in the past decade by federal action and other factors.

Conservation of marine resources appears to be rapidly ascending as a National priority. Should it in fact become a priority, then the Departments of Commerce and the Interior should be prepared to allocate budgetary resources to advance that priority.

Simply examining the issue of by-catch reveals the current economic waste being suffered by harvesters at the direction of the government. By allowing them to retain landed and expired fish, more needed economic resources could be retained within the industry.

### *Science & Technology*

The requirement of "best scientific information available" poses a daunting and unnecessary challenge for the councils, the Secretary, and others. Subjective interpretation of what is best will necessarily lead to conflict and contention.

Clearly, harvesters must play a role in the development of accurate scientific information. While sea sampling, log books and observers presently provide them with a role, it is limited.

Recently announced Fishing Industry Grants point the way toward increased support for harvester-based research. Similarly, it appears that Saltonstall/Kennedy Grants are beginning to be redirected toward their original and necessary intent of applied research.

A reauthorized Magnuson Act must carry this trend further. First, funds should be guaranteed for additional harvester-based research. Second, partnerships with institutions of higher learning should be encouraged. Third, a requirement that "all available scientific information" be considered and should be instituted. Further, the Council and/or National Marine Fisheries Service should be required to document in writing the differences among presented information and reasons why any presented information was not included in the decision-making process.

Last, those research projects which solely affect the seafood industry, such as vessel buy-back programs, should be reserved for industry research and development. Accordingly, funding such as that described above can be properly applied to develop commercially practicable solutions.

## BIOLOGICAL RECOMMENDATIONS

### *Habitat*

Much of the destruction or habitat loss has occurred within the fisheries which are within our shore side or coastal habitat areas. Under the Atlantic Coastal Fisheries Cooperative Management Act, P.L. 103-206, a major objective is to direct the responsibility of managing the Atlantic coastal fisheries and the states through the Atlantic States Marine Fisheries Commission. Thus, the Atlantic Commission and both the Secretaries of Commerce and Interior are mandated presently to improve the process for mutual state implementation of necessary fishery management measures, including the loss of vital habitat areas. P.L. 103-206 provides a strong means to manage both fisheries and habitat within the important inter-coastal state areas and jurisdiction beyond territorial waters. Clearly, extending this Act to include all Commissions throughout the nation will bring about habitat protection without encumbering the Magnuson Act. Additional funding, however, would be required.

### *Overfishing and Recovery Plans*

The 602 guidelines should be maintained as informed guidelines established under the present Magnuson language, Sec. 301(b), advisory guidelines.

I support the councils' position that the Secretary can reject any recommendation which does not conform to the Guidelines and the National Standards.

I believe any overfished fishery must undergo a rebuilds approach; however, I do not agree with a legislated rebuilding program (recovery program) that ignores the social needs of the fishing public. Any rebuilding program must be designed to maintain the maximum fishing infrastructure of a fishing community. More impor-

tantly, a rebuilding program must established a level that rebuilt fishing stocks at a steady pace, yet maintain the maximum amount of job opportunities.

#### *Bycatch/Waste/Gear*

I request the elimination of the amendment's language which attempts to reduce bycatch to insignificant levels approaching zero. Instead, I recommend modification of the bycatch policy, as such, " \* \* \* to reduce bycatch to the minimum extent practicable, based upon existing demonstrated technological developments." I do support the Subcommittee Staffs' recommendation that during the preparation of FMPs, councils would be required to note bycatch fisheries and develop reduction methods/measures.

Due to the interrelationship of bycatch, which is either directly or indirectly related to fishing gear, I support the continual gear or conservation engineering studies.

I support the concept of positive incentive programs to avoid bycatch and waste, and strongly recommend working with entire fishing communities to achieve this goal. Gear research will play the most significant role in the restoration of our resource stocks during the next decade and therefore, for the future of all renewable stocks. More so, I support the ability to determine technological changes that are evolving within the harvesting community and I must have the ability to anticipate gear changes/impacts on present and future management measures.

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#### PREPARED STATEMENT OF NELSON R. BEIDEMAN, EXECUTIVE DIRECTOR, BLUE WATER FISHERMEN'S ASSOCIATION

On behalf of the members of Blue Water Fishermen's Association (BWFA), I extend our appreciation to you for including Highly Migratory Species issues in this Field Hearing and your continued interest in these international resources. These species are important to many commercial and recreational fishermen, not only here in New England but along the eastern seaboard.

We appreciate your foresight and effort to secure the "1990 HMS Amendments". We encourage your continued support and ask that you resist any changes that would reduce the effectiveness of the existing program or reduce the fair protections to US fishermen provided by the 1990 Amendments.

Presently, all US Fisheries face difficult decisions as Congress proceeds to reauthorize the Magnuson Fishery Conservation and Management Act (MFCMA) and the Atlantic Tunas Convention Act (ATCA). Many issues have been raised and reauthorization discussions are on-going. We have attached preliminary discussion items, while we wait to review draft bills from both the House and Senate Fisheries Committees.

BWFA has suggested additional HMS amendments (attached) to Senate Commerce Committee Staff that would enhance participation in the Secretarial Management Process, and to establish comparable reporting and conservation provisions for other users of these internationally shared resources. We appreciate the continued cooperation of your staff in developing these amendments.

Again, thank you for your active interest in these issues. We look forward to working with you throughout this year's legislative process to reauthorize the MFCMA and the ATCA.

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#### MAGNUSON ACT REAUTHORIZATION DISCUSSION ITEMS: HIGHLY MIGRATORY SPECIES SECTION

##### *Implement procedures to discourage non-compliance with International Recommendations*

Although this reauthorization may be too late to affect the ICCAT North Atlantic Swordfish Stock Recovery Program for 1994, Congress should establish monitoring and enforcement procedures ensure that access to U.S. markets does not provide incentives to circumvent conservation and management recommendations for species under international management agreements to which the U.S. is a party. This may prevent similar problems of overfishing international fish stocks in the future and offset the economic hardship to U.S. fishermen who bear more than their fair share of the conservation burden.

##### *Plan Development Teams*

Despite repeated requests from both recreational and commercial fishermen, NOAA has failed to establish a plan development process which involves interested parties in open public discussion and review of issues and scientific evaluations. The present ad hoc process does not provide adequate public involvement in developing

recommended management options. We propose that you direct the Secretary to appoint teams from the ICCAT Advisory Committee established under the Atlantic Tunas Convention Act to develop and recommend plans for the Secretary's review and adoption.

*Retain and strengthen provisions to allow U.S. fishermen a "Reasonable Opportunity" to harvest U.S. share*

If anything, the "reasonable opportunity" language needs to be strengthened. The rights of U.S. recreational and commercial fishermen to have a "reasonable opportunity" to harvest the Nation's international share should be protected. This section only reinforces the fact that the U.S. cannot conserve these internationally-harvested resources by U.S. restrictions alone. Current protective phrases have not prevented the Secretary from implementing several regulations for highly migratory fisheries that are more restrictive than the relevant international recommendations. After establishing the U.S. share, traditional allocation decisions will continue to be domestic issues. The concern about "locally available stocks" is an allocation issue at this time and should not cloud the issue of the Nation's rightful share of an internationally-set Total Allowable Catch.

*Clarify references to "Quota or Allocation" in MFCMA and ATCA*

Under the Atlantic Tunas Convention Act (ATCA), "no regulation promulgated under this section may have the effect of increasing or decreasing any quota or allocation of fish to the US agreed to pursuant to a recommendation of the Commission." NOAA improperly interprets the terms "allocation or quota" to exclude the "fishing mortality levels" adopted by ICCAT for the North Atlantic Swordfish Stock Recovery Program. This occurred despite the fact that NOAA scientists have recommended that fishery management could be improved by calculating quota levels based on fishing mortality rate targets. NOAA also asserts that US harvests can be reduced below those levels negotiated with other foreign nations.

*Delete the duplicate consultative role of the Councils*

Each Atlantic Regional Fishery Management Council has the privilege of holding a voting seat on the U.S. ICCAT Advisory Committee to the U.S. Section of the ICCAT. In addition, each affected State is an ex-officio members of the U.S. ICCAT Advisory Committee. There is no need to require the Secretary to consult with the Councils twice. Given their limited resources and increasing workload, Councils and their staffs should be relieved of this duplicate task to allow them to concentrate on the species under their authority.

*Extend Secretarial Authority to all HMS in U.S. EEZ*

Current Pacific Management regimes lack authority to take a full international perspective of their highly migratory species into account. Unless reauthorization addresses this now, we may not have international systems on line to deal with it when conservation measures are needed. The IATTC has been gathering fisheries data in the Pacific since 1949 and is professionally capable to play a similar role as ICCAT presently does in the Atlantic.

*Exempt HMS from Extension of State Jurisdiction*

Discussions are underway regarding the extension of State jurisdiction out to 200 miles, to apply in cases where no Federal FMP exists. BWFA is concerned that State landing restrictions could be placed on internationally shared resources such as Albacore, Yellowfin or Bigeye Tunas. BWFA suggests that Secretarial Authority should preempt State Authority for Highly Migratory Species.

MAGNUSON ACT REAUTHORIZATION PRELIMINARY DISCUSSION ITEMS: GENERAL ISSUES

*Proposed National Standard No. 8*

The present wording of DOC proposed National Standard No. 8 may take our nation further down the road of regulatory discarding. Although this may benefit the political agendas of some groups, it does little for conservation and nothing for addressing the problem of waste. U.S. management measures should begin to resolve the implementation of wasteful regulations. Suggestion: reword the new National Standard to read " \* \* minimize the unnecessary waste of the incidental catch of non-target living marine resources.

*Definition of Overfishing*

We agree this is an issue which needs to be addressed. Until we have data and management systems that consider entire "Ecosystem Impacts" relative to conservation plans and regulations, we are concerned about relying on the existing "best available information". The National Academy of Science definition would be viable

alternative to some of the current proposals. The NAS definition of overfishing reads: Fishery management should promote full realization of optimum yields as originally envisioned in the MFCMA by ensuring that harvest does not reduce stock abundance below levels that can sustain maximum yields over the long term. For currently overfished stocks, harvest levels must allow rebuilding the stock over specified periods of time to a level that can support sustainable maximum yields. Any departure from the above must be supported by persuasive evidence regarding natural variability, ecosystem interdependence, sustainable national income gains, or truly exceptional socio-cultural considerations.

#### *User Fees*

We agree that NMFS needs proper finding to better conserve and manage our living marine resources. Budgetary constraints demand that new finds be found if expansion of government services is necessary. User fees must be fair and equitable for all fisheries users, recreational, commercial and imported product. An advisory group must be formed and consulted to dedicate finding to specific programs. A portion should be utilized for such programs of direct benefit to users as support of national fishery associations such as SFI and NFI, Generic Marketing and/or US Fisheries Public Relations.

#### *Saltentall-Kennedy Fund*

The money from this fund must be closely monitored and redirected to Fisheries Research and related fisheries programs as it was originally intended.

#### *Conflict of Interest*

Standards must be applied equally to all organizations who seek members who are interested in fisheries or other marine issues. We are very concerned about recent proposals that would nullify one of basic purposes of the Magnuson Act—to have those who are managed be an integral part of the management process.

#### *Confidentiality of Data in Perpetuity*

With proposals for a National Data Collection Program, it is more important than ever to assure confidentiality for submitted data. The confidentiality issue should be separated from retention and storage expenses. Perhaps fill page optical scanning into data disk form would be a viable option to bulky paper storage.

#### *Definitions*

The Magnuson Act has references to several pertinent terms that should be defined. These include the terms: "bycatch", "commercial fishing", "recreational fishing", and "target species". The language crafted to define "bycatch" and "target species" must keep in mind that many U.S. fisheries are multi-species fisheries. Fishermen often catch a variety of species on the same fishing trip. All usable species are kept to comprise the total catch. Legislation should clearly promote a more holistic approach to management, not regress to species-specific management.

Coast Guard regulations and various FMP's have provisions for commercial fishing vessels (or fishermen) and recreational fishing vessels (or fishermen). The Magnuson Act should clearly define these terms.

#### **MFCMA & ATCA AMENDMENT: HIGHLY MIGRATORY SPECIES COMPARABLE CONSERVATION PROVISIONS**

The Secretary shall:

- 1) Provide Congress with a report within 6 months of the passage of this act on the catches and imports from 1982 through 1993 of tuna, swordfish, marlin, and sharks from nations fishing on Atlantic stocks of these species under ICCAT jurisdiction or Secretarial management authority.

- 2) Identify those nations whose production has increased within the past 5 years and determine if those harvests are compatible with existing management programs for highly migratory species. If production is incompatible with existing management programs, the Secretary shall issue a finding that continued harvests by that nation are diminishing the effectiveness of an international management program.

- 3) Identify those nations with expanding fisheries on fully exploited or over-exploited highly migratory species resources that have received economic aid from U.S. or UN developmental agencies. The Secretary of Commerce and the Secretary of State shall notify U.S. and UN organizations responsible for funding fishery development programs that these programs are diminishing the effectiveness of international management programs.

- 4) In those cases where ICCAT or a similar international organization has recommended that harvesting nations limit or maintain their catch levels or harvesting capacity at recent levels for a specific stock, the Secretary shall establish import

quotas for that stock based on the average exports received during the time period referenced in the management recommendation.

5) In those cases where ICCAT or a similar international organization has recommended supplementary non-quota management recommendations (i.e. minimum sizes), the Secretary shall institute reporting requirements for imported production that will document compliance with the management recommendations as a condition for importation.

**Rationale:** The proposed amendment strengthens the existing language in the ATCA with respect to Secretarial authority to support and enhance international management of shared highly migratory species resources. The amendments require that the Secretary establish reporting and compliance requirements for internationally managed stocks. Capping or restricting imports from these stocks to levels consistent with international management recommendations will encourage compliance and prevent the U.S. market from providing an incentive for competing international fleets to expand their catch and effort while U.S. fleets are restricted. Unlimited access to the U.S. market has encouraged fleet expansion in the Caribbean and Latin America where ICCAT management recommendations are not enforced. Canadian swordfish landings and exports have increased in excess of 200 percent since 1989-1991, while U.S. landings have been reduced by 37 percent.

#### SUMMARY OF ICCAT NORTH ATLANTIC SWORDFISH STOCK RECOVERY PROGRAM AND THE EXPANSION OF CANADA'S HARVEST

1990 ICCAT Recommendations for North Atlantic Swordfish basically recommended:

- Major Harvesters (Spain & US): reduce harvest on swordfish above 25 kilogram by 15 percent of 1988 harvest level
- Minor Harvesters (including Canada): keep annual catches within levels that are reasonable and abide by minimum size measures. Floor discussions defined this as within 45 percent increase of 1988 level but this was not reflected in the final recommendation.
- All Atlantic Swordfish Harvesters: observe a 25 kilogram minimum size with an allowable trip tolerance of 15 percent by total number of swordfish aboard the vessel.
- Bycatch Nations (Japan): keep incidental catch to within 10 percent

The 1992 ICCAT (SCRS) North Atlantic Swordfish Stock Assessment indicated that the stock was estimated to be 16 percent below the optimum population size but due to reductions in harvests was now rebuilding by 500-600 MT per year. This scientific information prompted the necessity for ICCAT's 1992 Swordfish Recommendation.

1992 ICCAT Recommendations for Atlantic Swordfish basically recommended:

- That the Commission advise all nations involved in fisheries which harvest swordfish in the Atlantic Ocean to make every effort to maintain their catch levels or fishing capacity for the immediate future (1993-94) at recent levels;

Since this time, the US has reduced its harvest of North Atlantic Swordfish by 37 percent from the 1988 harvest level. Spain has reduced its harvest of North Atlantic Swordfish by 41 percent from the 1988 harvest level. Japan & Taiwan have kept their incidental harvest overall to within By-catch limits.

Canada harvested 898 MT of North Atlantic Swordfish in 1988; 1,247 MT in 1989; 911 MT in 1990; 1,026 MT in 1991; 1,547 MT in 1992; and preliminary investigation information by the NMFS/HMS Division has Canada's 1993 US Imports at 2,321.86 MT for 1993.

The US fishing industry, both recreational and commercial, and Conservation and Environmental Groups associated with Highly Migratory Species Fisheries have universally raised this issue and are calling upon the US Government to take action in the form of "Trade Restrictions" as outlined in the Atlantic Tunas Convention Act; Subpart D. The urgency of this issue stems from the desire to not allow a second season of "Overfishing" by Canada to undermine the ICCAT Swordfish Recovery Program and to strengthen ICCAT by setting a constructive precedent for the management of these internationally-shared resources.

The Canadian industry is standing on an arbitrarily set 2000 MT Quota (which they did not adhere to in 1993) while attempting to divert attention by pointing to the US discard of undersized swordfish. Canadian Officials are using historic swordfish participation, the present status of the Groundfish fishery and scientific advice stating it is "reasonable" for Canada to have a 2000 MT quota due to the area covered by Canadian jurisdiction, as arguments to justify their actions.

Bilateral discussions between US/Canada Fishery Managers have found common ground to begin addressing other minor harvesting nation's expansion issues; how-



ever, 110 progress has been made toward resolving Canada's compliance with the present ICCAT Swordfish Recovery Recommendations.

The primary goal of US industry continues to be to have Canada reduce its 1994 swordfish quota to 1302 MT then join with the US to seek multinational solutions to prevent expansion and/or the development of highly migratory species fisheries on fish stocks that ICCAT has scientifically determined to be fully and over-exploited.

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[Miscellaneous information may be found in the committee files.]

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PREPARED STATEMENT OF HENRI FRANCIOS, PORT AGENT, NEW BEDFORD, MA,  
SEAFARERS INTERNATIONAL UNION OF NORTH AMERICA

My name is Henri Francios, Port Agent for the Seafarers International Union of North America which represents 85,000 men and women involved in fishing, marine transportation, and other marine-related occupations. Here in the port of New Bedford—the largest fishing port on the eastern coast of the United States—the SIU represents some 450 people who earn their living harvesting fish for the American people. I thank the members of this distinguished committee for coming to our port and giving the SIU and myself this opportunity to testify.

This is a difficult time for fishermen. Many individuals are suffering economic hardship because of depleted fish stocks and tough fishery management regulations. Our neighbors and friends have been illegally seized and arrested by the Canadian Government. But despite these daily hardships, fishermen recognize the importance of focusing on the bigger picture of the Magnuson Act and the broad rules which guide fishery management in the United States. However, I trust that you—the representatives of the American people—have listened to our daily concerns and have, and will continue to, provide us with the assistance we need to weather these crises.

I would like to use this opportunity to focus on just a few of the critical issues regarding the Magnuson Act which are vital to the fishermen of the SIU.

- First of all, I would urge the Senate not to impose any new taxes or "user fees" on the already troubled fishing industry. It would be sadly ironic to give us financial assistance with one hand, only to take away more with the other. Any new user fee will simply mean broad-based financial ruin for New Bedford and hundreds of other fishing communities.

- Another issue of grave concern is that of so-called individual transferrable quotas or ITQ's, and what we here in New Bedford are concerned about, permit consolidations. These issues are very similar. In effect, the New England groundfish plan gives each boat a certain number of days at sea to fish. Some want to be able to buy out other fishermen's permits and "consolidate" them in order to fish more days. The SIU strongly opposes this.

Just like the ITQ's, where fishermen are given a small amount of quota they can either fish or sell, permit consolidations will mean massive unemployment as financially well off companies and individuals will "corner the market" on these fishing rights. The SIU, on the other hand, wants to see a system where all fishermen can get by until the current fishery crisis passes. The SIU advocates a management system that allows fishermen to do what they know and love: earn their living at sea.

The SIU has testified before the Senate that Congress should put a moratorium in place on new ITQ plans until a study can be done of the ITQ program for Atlantic surf clams and ocean quahogs and of the Pacific halibut ITQ plan. I am informed that your committee is considering such a ban on ITQ's and urge you to pass that. However, the SIU strongly believes that neither the Secretary of Commerce or the National Marine Fishery Service should be in charge of the study.

The fishery bureaucrats do not have the training to study the social and economic devastation caused by the surf clam ITQ's. Further, the agency has many individuals who see ITQ's as a way to expand their budgets and increase their control over the industry. The SIU requests that any study be done by an independent Government agency.

- The SIU also believes that many of the problems Congress has been hearing about from the environmental community are based on the realities of years past. While it is true that overfishing is currently a problem, this problem did not emerge overnight.

Given that the first priority of the Magnuson Act was to "Americanize" the fisheries, it is not surprising that during the act's first decade, conservation was not given full priority. Even today the industry suffers from the failure to manage fisheries effectively and efforts to increase the U.S. fishing fleet.



Over the past 5 or 6 years, however, the councils have become more effective in passing management measures which work, and the economics of the industry have led to an overall decrease in fishermen. This process must be given a chance to work. By now swinging too far in the other direction—as many environmental groups want—it is quite possible that a real crisis can and will develop in this and other U.S. fishing communities, and the Nation will lose vital fishing infrastructure and traditions.

The SIU believes that it is important to maintain these communities and the traditional characteristics which make the commercial fishing industry one in which individuals can succeed through hard work. Thank you very much for this opportunity to present this testimony, and I would like to request the opportunity to address these and other concerns of the SIU regarding the Magnuson Act in written testimony.

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PREPARED STATEMENT OF WILLIAM HOGAN, PROFESSOR OF ECONOMICS, UNIVERSITY OF MASSACHUSETTS DARTMOUTH

The crisis in the fisheries of the northwest Atlantic is severe. The exact dimensions of the crisis, however, are ambiguous because of the lack of reliable data on the fisheries. During the Reagan-Bush administrations, funding for the National Marine Fisheries Service and other data-gathering agencies was sharply reduced and has not been restored to pre-1981 levels in real terms. The first order of business in directing public support toward the fisheries should be the institution of accurate and comprehensive data-collection systems, and dissemination of data gathered from these systems in a variety of formats.

Confidentiality, as always, must be assured; that is, the individual respondent must be confident that neither colleague nor competitor will have access to information regarding the specifics of his or her operations. Aggregation of many individuals, for example, to the port level, is one of the simplest ways of achieving confidentiality. As the Federal Government embarks on programs to distribute taxpayers' funds to provide financial support to the industries that make up the fisheries, it is both appropriate and necessary that there be a clear understanding of the nature and magnitude of the problems to be addressed.

Data on fisheries, as for most other economic statistics, are a public good. It will never be profitable for any individual or corporation to gather the data; compile, classify, and analyze them; and disseminate them to users. Like the national parks or national defense, if we are to have these economic data they must be provided by the Government. As the Federal Government has reduced its data-gathering and dissemination functions, they have not been replaced by the private sector.

We need accurate and comprehensive data on quantities and prices by species by port by month, at a minimum. We need price and quantity data at the harvest, wholesale, and retail levels. The absence of information of this kind makes it nearly impossible to assess the true extent of the problems in the fisheries, to identify those who suffer the greatest damage as the fisheries decline.

As Congress deliberates the reauthorization of the Magnuson Act, there are no good examples of successful fisheries management elsewhere in the world to guide us. Overfishing is a worldwide phenomenon that is occurring in nearly every commercially harvested fishery. It appears that no one else has been much more successful than the United States in devising approaches to manage fisheries. Fisheries management is an extraordinarily difficult process.

A variety of approaches have been taken by other nations to fisheries management. An example of "top-down" management is Canada. The central government has simply closed fisheries and put fishermen and processors on the dole. It seems likely that fishermen themselves would have elected this approach; it had to be imposed, from the top down, by the central government. It is expensive and may require financial resources for years or possibly an entire generation before fish stocks recover.

An alternative approach would give fishermen a greater role in the management process. Indeed, a key to any successful management system is direct participation by fishermen. This has not been the case in the previous amendments to the Magnuson Act. The port of New Bedford, for example, has not been directly represented on the New England Fisheries Management Council. When fishermen feel they have no say in the management plans, they are unlikely to support them. This reauthorization of the Magnuson Act should provide for a more democratic approach to creating, implementing, and enforcing a management plan.

Another key to successful fisheries management will be to create incentives to conserve fish stocks. One possible approach to creating such incentives, and thus to

overcome the incentives to overfish, is an individual transferable quota (ITQ). While there are significant problems with these systems, the reauthorization should consider some experimental measures, perhaps limited to certain species and/or certain areas. Assigning property rights will be very difficult, but it may be a way to move toward a self-managed fishery, as opposed to one that is managed by the Government. Congress should give careful consideration to cautious experiments in new ways to achieve self-management of the fisheries.

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